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ABSTRACT

These special education rules outline requirements to which Utah's local education agencies, state-operated programs, and other public and private agencies providing publicly funded education and related services to students with disabilities must adhere. The rules are in compliance with the requirements outlined in the Individuals with Disabilities Education Act regulations. They spell out requirements in the following areas: general provisions; responsibilities of the state Office of Education; student identification, location, and evaluation; service delivery; due process hearing procedures; administration and governance; and funding. In addition to the rules, the document contains the Utah Agenda for Meeting the Needs of Students with Disabilities, which is a framework for special education and includes statements such as: every individual has unrealized potential for growth and the ability to learn, every individual is entitled to effective education and services consistent with his/her unique needs, and student learning is enhanced when reciprocal accountability exists among the individual, family, community, and educational system. Appendices address regulations governing placement of eligible students with disabilities in private residential schools; vocational rehabilitation services; elementary and secondary program of studies and high school graduation requirements; state certification endorsements for special education, school psychologist, and school social worker; Utah special education law; Coordinating Council for Persons with Disabilities; and an interagency memorandum of understanding. (JDD)

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ED 373 519

Utah State Board of Education

SPECIAL EDUCATION RULES

Scott W. Bean
State Superintendent of Public Instruction

Utah State Office
of Education
250 East Fifth South
Salt Lake City, Utah 84111

MAY 1993

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Utah State Board of Education

SPECIAL EDUCATION RULES

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MAY 1993

INTRODUCTION

This document represents a revision of the previous State Board of Education Special Education Rules, adopted by the Board in April, 1988. These Rules provide requirements to which local education agencies, state operated programs, and other public and private agencies providing publicly funded education and related services to students with disabilities, must adhere.

These Rules are in compliance with the requirements outlined in the Individuals with Disabilities Education Act (IDEA) Regulations contained in 34 CFR 300. Under this Act, the State Education Agency (SEA) is responsible for insuring: (1) that the requirements of IDEA are carried out, and (2) that each educational program for students with disabilities administered within the State, is under the general supervision of special education staff in the SEA, and meets the education standards of the State Educational Agency.

This document also contains two other sections which are critical pieces of information as you begin the implementation of the Rules. These sections are: the Utah Agenda for Meeting the Needs of Students with Disabilities, and the Appendices.

In 1992, the Utah Legislature provided statutory authority for the Utah State Public Education Strategic Plan. Within this Plan is the vision that all students can learn and be prepared to compete in a global society as a result of educational opportunities. The State Board of Education adopted the Utah Agenda for Meeting the Needs of Students with Disabilities, in April of 1993. The Agenda is intended to be a framework for special education in the state, and a unifying voice related to the education of students with disabilities, as we implement the Utah State Public Education Strategic Plan.

The last section of the State Board of Education Special Education Rules, contains the Appendices. They contain references and technical assistance documents useful to special educators and administrators.

Appendix H, the final portion of the Appendices, is Selection of Least Restrictive Behavioral Interventions for use with Students with Disabilities (LRBI). This document contains required procedures, and is bound under a separate cover.

It is important that you become familiar with this complete document and refer to it regularly, as you provide effective and appropriate services to each student with disabilities.

Scott W. Bean

Scott W. Bean, State Superintendent of Public Instruction

UTAH AGENDA
for Meeting the Needs of Students with Disabilities

BELIEFS

WE BELIEVE THAT:

- (All) life has purpose.
- Every purpose has an absolute inherent value.
- Family is the fundamental unit of society.
- Every individual has unrealized potential for growth.
- Each individual has the innate right of choice and the responsibility for the consequences.
- The acquisition of knowledge in the pursuit of truth is essential to human progress.
- Freedom of thought is an inalienable right.
- Successful societies create an environment that stimulates individual initiative.
- The expression of individual uniqueness is essential to personal development.
- Each individual has the ability to learn.
- The United States system of self-governance depends upon an educated citizenry.
- Honesty and moral integrity are essential to positive human interaction.
- Every individual needs to give and receive love.
- A fair and just system of law, protecting individual rights, is essential to the orderly function of society.
- Individual well-being is the responsibility of first the individual, second the family, and third the community.
- Performing meaningful work is essential to a quality life.
- An understanding of diverse cultures is essential in an interdependent world.
- Diversity should be understood, respected and celebrated.
- Every individual is entitled to effective education, services, and treatment consistent with his/her unique needs.

- Individual development is an important life-long process.
- Society is enriched when everyone is included.
- Education for all individuals is a community investment.
- Special Education is a set of unique interventions within a single system of education.
- Individual outcomes are the appropriate focus for service and accountability.
- Student learning is enhanced when reciprocal accountability exists among the individual, family, community, and educational system.
- Personnel development is essential for effective service delivery.

MISSION STATEMENT

The mission of the service system for Utah students with disabilities is to empower each individual to be a caring, competent, and contributing citizen in an integrated, diverse, and changing society. This will be accomplished through the proactive coordination of all information, resources, and services, continuously assessing and expanding each individual's capabilities and quality of life.

OBJECTIVES

- By July 1, 1997, funding across all agencies and service providers will be adequate and equitable for all services necessary to meet each student's diverse needs.
- By July 1, 1994, a system will be established that continually informs the public of the potential and unique challenges of students with disabilities and their families.
- By July 1, 1994, every community will have an established interagency collaboration mechanism using resources and services to empower each student and family.
- By July 1, 1997, all personnel will use effective instruction in the delivery of a valid curriculum, as indicated by comprehensive student outcomes.

STRATEGIES

1. Develop a unified advocacy approach to achieve adequate and equitable funding.

2. Develop incentives to recruit and retain trained staff.

   Develop and implement a training program for service providers including delivery systems, a comprehensive assessment of outcomes, and valid curriculum.

3. Use mass media to inform the public of the needs of students with disabilities and their contributions to society.

4. Develop, implement, and evaluate a Comprehensive Service Program (CSP) for each student with disabilities.

   Ensure the success of the Coordinating Council for People with Disabilities and develop interdepartmental legislation and funding to go to local interagency councils.

5. Develop and implement a comprehensive program to provide greater access and opportunities for integration into the most inclusive environment appropriate to meet the needs of each student.

6. Develop a formal seamless transition program for individuals with disabilities (birth to 22).

7. Develop a system for ensuring that each student with disabilities leaves public education with social competence appropriate to the individual student.

8. End the perception that special education is a separate system.

STATE BOARD OF EDUCATION
SPECIAL EDUCATION RULES

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STATE BOARD OF EDUCATION SPECIAL EDUCATION RULES

I. GENERAL PROVISIONS

I. A. Purposes. The primary purposes of these Rules are:

1. to ensure that, consistent with Section 53A-15-301 through 53A-15-305, Utah Code Annotated, and the Individuals with Disabilities Education Act, Public Law 94-142, as amended, each school-aged student with a disability in Utah receives a free and appropriate public education, in accordance with the student's individually determined needs;

2. to provide a comprehensive system for conducting public educational programs for school-aged students with disabilities in the State of Utah;

3. to establish State standards for the provision of a free, appropriate public education to school-aged students with disabilities consistent with Public Law 94-142, as amended;

4. to establish procedures for public education agencies and parents within the State of Utah in the protection of the rights of students with disabilities; and,

5. to provide a system for State reimbursement for disabilities program costs authorized under the school finance law.

I. B. Authority. These Rules are authorized under Section 53A-15-301, Utah Code Annotated, and have been adopted by the State Board of Education.

I. C. Applicability. These Rules are applicable to all public agencies within the State of Utah providing education and related services for students with disabilities. (Section 53A-15-301, Utah Code Annotated) This includes private agencies serving students with disabilities with public funds.

I. D. Amendments. Any proposed changes in these Rules shall be in accordance with the provisions of the Utah Administrative Rulemaking Act.

I. E. Definitions. The terms defined below are found throughout these Rules.

1. **Adaptive Behavior** is defined as the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of students of comparable age and cultural group.

2. **Assistive Technology Device** means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of students with disabilities.

3. **Assistive Technology Service** means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes--

   a. the evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;

   b. purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;

   c. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

   d. coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

   e. training or technical assistance for a student with disabilities, or, where appropriate, the family of an individual with disabilities; and

   f. training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of students with disabilities.

4. **Autism.** A developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three, that adversely affects educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has a serious emotional disturbance, as defined in I.E.5, below. If a student manifests characteristics of the disability category "autism" after age three, that student still could be diagnosed as having "autism" if the criteria in this section are satisfied.

5. **Behavior Disorders.** A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; and a tendency to develop physical symptoms of fears associated with personal or school problems. The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have a serious emotional disturbance.

6. **Communication Disorders.** A student who has a communication disorder such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a student's educational performance.

7. **Consent** means that:

   a. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

   b. the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and,

   c. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

8. **Deaf.** A hearing impairment so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a student's educational performance.

9. **Developmental Delays.** A preschool-aged student, ages 3-5 inclusive, who is eligible for special education and related services and who has been diagnosed as having a significant delay or deficit in one or more areas of development, including cognitive, physical, motor, communication, social/emotional, adaptive, vision or hearing, in accordance with these Rules.

10. **Dual Sensory Impairments.** A student who demonstrates concomitant hearing and visual impairment, the combination of which causes severe communication and other developmental and educational problems that cannot be accommodated in special education programs solely for students with vision impairments, hearing impairments or multi-disabilities.

11. **Evaluation.** Procedures used in accordance with these Rules to determine whether a student has a disability and the nature and extent of the special education and related services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class.

12. **Federal Administrative Responsibilities.** Any administrative responsibility or obligation established or imposed under Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1401 et. seq.) and its implementing regulations (34 CFR 300) or under the General Education Provisions Act or its implementing regulations (34 CFR 76).

13. **Free Appropriate Public Education** means special education and related services which:

a. are provided at public expense, under public supervision and direction, and without charge;

b. meet the standards of the State Office of Education and IDEA, Part B;

c. include preschool, kindergarten, elementary school, and secondary school education in Utah; and,

d. are provided in conformity with an Individualized Education Program (IEP) which meets the requirements of IDEA-B, as well as the Utah Code Annotated and these Rules.

14. **Hearing Impairments.** A hearing impairment, whether permanent or fluctuating, which adversely affects a student's educational performance but which is not included under the category of "deaf" in these Rules.

15. **IDEA** means Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1401 et. seq.), formerly the Education of the Handicapped Act, and its implementing regulations (34 CFR 300).

16. **Individualized Education Program (IEP).** A written statement for a student with a disability (s) that is developed and implemented in accordance with these Rules. The IEP serves as a communication vehicle between parents and school personnel, and enables them, as equal participants, to decide jointly what the student's needs are, what services will be provided to meet those needs, what the anticipated outcomes may be, and how the student's progress toward meeting the projected outcomes will be evaluated.

17. **Intellectual Disabilities**. A student who demonstrates significantly subaverage general intellectual functioning concurrently with deficits in adaptive behavior. These deficits usually emerge during the student's developmental period, and adversely affect the student's educational performance. Students with intellectual disabilities are those individuals who exhibit cognitive and behavior deficits that are likely to be life-long disabilities which can interfere with independent living. This definition includes students previously classified as Intellectually Handicapped and Severe Intellectually Handicapped.

18. **Least Restrictive Environment** means that to the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled, and that special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

19. **Multi-disabilities** means concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational problems that the student cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

20. **Orthopedic Impairments.** A severe orthopedic impairment which adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

21. **Other Health Impairments.** A student who exhibits limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes that adversely affects a student's educational performance.

22. **Parent** means a parent, a guardian, a person acting as a parent of a student, or a surrogate parent who has been appointed in accordance with these Rules. The term does not include the State if the student is a ward of the State.

23. **Rehabilitation Counseling Services** means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

24. **Related Services** means transportation and such developmental, corrective, and other supportive services determined by an IEP Team as required for a student with disabilities to benefit from special education. Such services include speech pathology, audiological services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services, and parent counseling and training. For age appropriate students with disabilities, rehabilitation counseling would also be considered a related service (see Appendix B, Vocational Rehabilitation Services).

25. **School-Aged Students with Disabilities.** Individuals ages three through twenty-one who have been determined to be eligible for special education consistent with these Rules. For students who turn 19 on or after September 1, 1992 in the school year 92-93, Special Education and related services for these students, and all others who are younger, will cease on each student's 22nd birthday.

26. **Special Education** means specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of a student with a disability including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education.

27. **Specific Learning Disabilities.** A disorder in one or more of the basic psychological processes in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include students who have learning problems which are primarily the result of visual, hearing or motor disabilities, mental retardation, emotional disturbance, or environmental, cultural or economic disadvantage.

28. **Transition Services** means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from Part H to preschool, preschool to school-age, and school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

29. **Traumatic Brain Injuries (TBI).** Students having an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior, physical functions, information processing, and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

30. **Visual Impairments.** Students having an impairment in vision that, even with correction, adversely affects educational performance. The range of disability varies from total blindness to partially sighted.

31. **Vocational Education** means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

II. RESPONSIBILITIES OF THE STATE OFFICE OF EDUCATION

II. A. General Supervisory Authority. Authority and responsibility to make policy and set standards in the area of education of students with disabilities rests with the State Board of Education by virtue of its constitutional mandate to provide general control and supervision of the public school system (Article X, Section 8) and by specific legislative enactment found in the Utah Code, Annotated: 53A-15-301, 53A-15-302, and 53A-15-303. The statutes cited also indicate an intended partnership arrangement between the State Board of Education and local school districts. The statute also provides for general supervision of programs for students with disabilities served by all public agencies and institutions concerned with the training of students with disabilities.

53A-15-301. (1) All students with disabilities, who are between the ages of 3 and 22 and have not graduated from high school, are entitled to a free, appropriate public education. The State Board of Education shall adopt Rules consistent with applicable state and federal law to implement this chapter.

(2) The Rules adopted by the State Board shall include the following:

(a) appropriate and timely identification of students with disabilities;
(b) diagnosis, evaluation, and classification by competent personnel;
(c) standards for classes and services;
(d) provision for multi-district programs;
(e) provision for out-of-district placement if necessary;
(f) certification and qualifications for instructional staff; and
(g) qualification standards for aides and instructional assistants.

(3) The State Board shall have general control and supervision over all educational programs for students within the state who have disabilities. Those programs must comply with Rules adopted by the State Board under this section.

(4) The state superintendent of public instruction shall enforce this chapter.

53A-15-302. (1) The State Board of Education shall appoint a state director of special education, who shall be qualified and experienced in the area of special education.

(2) The state director has the following duties and responsibilities:

(a) to assist the state board and state superintendent of public instruction in performing their duties under this chapter;
(b) to encourage and assist school districts and other authorized public agencies in the organization of programs for students with disabilities;
(c) to provide general supervision over all public programs offered through a public school, public agency, public institution, or private agency for students with disabilities;
(d) to cooperate with private schools and other private agencies concerned with educating and training students with disabilities; and
(e) to coordinate all state programs for students with disabilities.

53A-15-303. (1) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district. The program shall include necessary special facilities, instruction, and education-related services. The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.

(2) School districts that provide special education services under this chapter in accordance with applicable Rules of the State Board of Education shall receive reimbursement from the board under Chapter 17, Title 53A, the Minimum School Finance Act and other applicable laws.

(3) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are younger than 3 or older than 21. The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

In order to obtain funds under Part B of the Individuals with Disabilities Education Act (IDEA-B), the State Office of Education must submit to the U.S. Department of Education, on behalf of the State of Utah as a whole, a State Plan containing written policies and procedures governing the operation of special education programs and must comply with a series of federal administrative requirements described in these Rules. Therefore, all provisions under Part B of the Individuals with Disabilities Education Act apply to each political subdivision of the State that is involved in the education of students with disabilities, irrespective of whether the subdivision receives any funds under IDEA-B. The requirements of Part B are binding on each public agency that has direct or delegated authority to provide special education and related services in the State of Utah.

II. B. Monitoring and Program Evaluation. The State Office of Education is responsible for the monitoring and evaluation of all public agencies within the State of Utah involved in the education of students with disabilities. Major components of the State's process include:

Data Collection. Data and reports related to the provision and evaluation of programs and services delivered to eligible students with disabilities are required annually. These include annual requests for State and Federal funds, child count, and financial reports.

Fiscal Audits. Annual Financial Reports are submitted to the Utah State Office of Education, Division of School Finance and Business, for review and comment. On-site audits of State and Federal fund use are conducted annually utilizing fiscal auditing procedures consistent with federal single audit requirements (see Rule II. N Fiscal Auditing Procedures).

Program Administrative Reviews. SEA personnel, contracted assistants, and selected observers from the Utah State Board of Education Advisory Committee for the Handicapped (USBEACH) will be involved in conducting Program Administrative Reviews (PARs) of public agency educational programs for students with disabilities. These reviews are conducted once every three years, or more frequently, if special circumstances dictate (e.g., continuous district noncompliance difficulties in service delivery efforts).

Program Review teams will select, based on a random sample of district files, a predetermined number of Individualized Education Program documents. The content of these materials will be analyzed, and attendant programs and services actually delivered to students with disabilities will be reviewed.

Specific procedures for implementing the PAR process include:

1. **Ongoing Self-Evaluation**

   The Program Administrative Review (PAR) is designed to enable Local Education Agencies (LEAs) and State Operated Programs (SOPs) to perform self-evaluations of the development, dissemination and implementation of their policies and procedures. Data from this self-evaluation can then be compiled into PAR Summary Forms. Since on-site PARs are usually scheduled once every three years, LEAs/SOPs are encouraged to conduct annual self-evaluations.

2. **The PAR Visit**

   Fourteen (14) days before the scheduled visit, the LEA/SOP is notified regarding the number and types of individuals who will be interviewed. This written notification will also indicate when the PAR team plans to review LEA/SOP policies and student records. The PAR visit generally requires from two to five days. The following schedule is followed:

   a. Meeting with Superintendent and other LEA/SOP representatives.

   b. Logistics: Policies, records, schools, and professionals are chosen for analysis and interviews.

   c. Document analysis: Policies and student records are reviewed (using a district policy checklist and a student record checklist).

   d. Validation interviews: Structured interviews are conducted with LEA/SOP personnel and parents.

   e. State staff reviews data and reaches a consensus of findings.

   f. Exit interview: Findings are shared with LEA/SOP personnel.

3. **Interim Report**

   a. Analysis of Data: State staff then will compile the data and using the summary forms, will collapse the data into categories, including, but not limited to, the following: Public Awareness, Prior Notice/Parents Rights, Identification, Evaluation, Individualized Education Program, Placement, Transition, Reevaluation, Out-Of-School Placement, Confidentiality, Due Process, LRBI, Comparability, Accessibility, and other requirements.

b. The Report: Using the summary data, state staff will formulate an interim report. This report will be shared with the LEA/SOP for comment within thirty (30) days.

c. Negotiation: In the thirty (30) day interval following receipt of the information in the interim report, the LEA/SOP will be given the opportunity to interact with the state staff regarding the content of the interim report. This input will be evaluated and will be considered for inclusion when the final report is assembled.

4. **Final Report**

The state staff will prepare the final report of the PAR visit. This report will identify areas of LEA or SOP noncompliance and may contain recommended strategies for remediating these issues. The final report will be sent to the LEA/SOP within thirty (30) days after the closing date of the interim report negotiation phase.

5. **Corrective Action Plan**

Within thirty (30) days after the final report is received by the LEA/SOP, a Corrective Action Plan will be negotiated between the LEA/SOP and the State, specifying strategies and timelines for ensuring that the public agency will immediately take steps to correct, prevent the recurrence of, and eliminate the past effects of each identified deficiency. Follow-up visits will be scheduled as mutually determined by the LEA/SOP and the USOE Special Education staff member assigned as the Technical Assistant (TA). Written documentation of Corrective Actions completed will be provided to USOE, Special Education Services Unit.

6. **Enforcement**

If an LEA/SOP fails to voluntarily take steps to correct any identified deficiency or implement any component of the Corrective Action Plan, the State Superintendent shall notify that agency, in writing, of the following:

a. The agency's failure to correct any identified deficiency constitutes noncompliance with state and federal law;

b. The actions to be taken by USOE to enforce state and federal law;

c. The right to a hearing prior to USOE's exercise of its enforcement responsibility; and

d. The consequence USOE's enforcement actions would have on continued and future state/federal funding of that agency's special education program.

II. C. Complaint Resolution Procedures. The USOE shall review, investigate and/or act on any allegations, submitted in writing and signed, of noncompliance with the provisions of the Act by the USOE or a public agency within sixty (60) calendar days unless exceptional circumstances exist (e.g. delay by a complainant to provide necessary information). An

extension of time shall not exceed thirty (30) calendar days. Such allegations may be made by public agencies, private individuals or organizations. The allegations must contain a general description of the facts surrounding the unmet compliance responsibility. These procedures are also used in reviewing an appeal from a decision of a public agency with respect to a complaint.

Parents and other interested individuals, including representatives of state advocacy and professional organizations, are informed about these procedures through: (1) parent rights statements provided by local school districts, (2) a statewide parent newsletter distributed on a quarterly basis, and (3) USOE staff presentations conducted throughout the state.

In addition, these procedures provide for the following actions to be taken in regard to a complaint: (1) carrying out an independent on-site investigation, if necessary, (2) giving the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint, and (3) reviewing all relevant information and making an independent determination as to whether the public agency is violating a requirement of Part B of the IDEA or of the regulations.

The USOE shall issue a written decision to the complainant and public agency against which the complaint was filed that addresses each allegation in the complaint. The written decision shall contain findings of fact and conclusions, and the reasons for USOE's final decision.

Special Education specialists assigned as a Technical Assistant (TA) to the various school districts and state operated programs will assist in the implementation of the requirements in this section. The State Director of Special Education will receive a copy of findings of fact pertaining to allegations of noncompliance with provisions of the Act. The USOE Special Education Technical Assistant will be responsible for providing technical assistance activities, for assisting in developing remediation strategies and for making recommendations to the State Director of Special Education. The Director will then provide for negotiations and will propose sanctions for noncompliance as required.

Withholding of Part B funds will be required when noncompliance by a public agency is sustained and no further payments to the public agency shall be made until the State Director of Special Education is satisfied that there is no longer any failure to comply with the requirements of IDEA-B. The USOE Special Education Technical Assistant will be responsible for documenting that any corrective action deemed appropriate by the State Director of Special Education has been implemented.

Complainants and public agencies will be informed of the final resolution of the complaint and that they have the right to request a review by the U.S. Secretary of Education of the final decision made by the State. PAR Reviews include follow-up on complaint resolutions.

II. D. Provision of Technical Assistance. In general, the 40 LEAs and 4 SOPs have been combined into formal Technical Assistance Regions served by Special Education Technical Assistants (TAs). The TAs, USOE Special Education staff members, are responsible for establishing and maintaining communication links with their assigned public agencies. These staff members monitor, on an ongoing basis, the special education and related services delivered to students and provide for technical assistance, in upgrading all special education services. The TAs assist LEA and SOP administrative and program staff in developing inservice training programs designed to upgrade the skills and competencies of personnel working with students

with disabilities. They represent front line USOE staff in assuring continued compliance with state and federal law, including the initial substantiation of allegations of noncompliance received under the complaint resolution section.

Technical assistance is provided on a continuing and special events basis. Technical Assistants provide continuing services to all public agencies serving students with disabilities on a regular schedule, as well as on a request basis. This mechanism provides for an uninterrupted communication linkage between the public agency and the USOE assuring immediate response to emerging and long term issues. Additionally, the State's TA system readily facilitates the identification and selection of resources which are available and which can be effectively utilized in upgrading programs, services and training of personnel serving students with disabilities. An integral part of the PAR system is technical assistance provided in the development of the Corrective Action Plan (CAP). In addition, TAs assist LEA/SOP staff in implementing the CAP and documenting the steps required to remedy areas of noncompliance.

II. E. Allocation and Use of Part B (IDEA-B) Funds. The general administration and disbursement of IDEA-B funds by USOE conform to the following policy:

1. Federal funds available for students with disabilities under Part B of the Individuals with Disabilities Education Act (IDEA-B), shall be used solely to supplement and not supplant, state and local funds appropriated to serve students with disabilities.

2. Procedures governing the use of Part B funds for state administration, LEA entitlements, and state discretionary support (i.e., used to supplement LEA entitlements) of a free and appropriate public program of special education and related services are as follows:

   a. State Administration. The Utah State Office of Education (USOE) will use an amount of funds not greater than 5% of the State's allocation for any Fiscal Year for administrative costs related to carrying out the provisions of the Act (IDEA-B). However, this amount will not be greater than 25% of the State's total allotment for the fiscal year under Part B of the Act. The USOE will utilize state administrative funds available under Part B (1) to administer the State Plan, (2) for planning at the state level, (3) assisting in the planning and design for programs, local, regional or state level and projects for students with disabilities.

      Specific activities to be performed in the management and control of federal funds will include (1) approval, supervision, monitoring, technical assistance, audit and evaluation of programs and projects for the education of students with disabilities, (2) technical assistance to school districts with respect to the Part B requirements, (3) leadership services for the program supervision and management of special education activities for students with disabilities, and (4) other state leadership activities and consultative services.

   b. State Discretionary Funds for Direct and Support Services: The Utah State Office of Education shall use the portion of its allocation it does not use for administrative costs to provide funds to be awarded on an application basis to LEAs to assist in supplementing the costs of programs and services and to

provide support services relating to the provision of a free appropriate public education (i.e., implementation of the Comprehensive System of Personnel Development), in accordance with the priority requirements under Part B of IDEA.

These funds may also be used for the administrative costs of USOE's monitoring and complaint investigations, to the extent that these costs exceed the administrative costs for monitoring and complaint investigations incurred during Fiscal Year 1985.

c. LEA Entitlements (Flow-Through). The Utah State Office of Education shall disburse to LEAs at least 75% of the State's allocation for any Fiscal Year. Each LEA shall be entitled to an amount which bears the same ratio to the total amount available for flow-through, for any Fiscal Year, as the number of students with disabilities aged 3 through 21, receiving special education and related services as reported on the December 1 child count prior to the grant period and upon which the State's allocation is determined, bears to the aggregate number of students with disabilities which the State Education Agency has certified and submitted to the U.S. Secretary of Education.

Funds disbursed under Sec. 619 of Part B may only be expended for use in preschool special education programs, ages 3 through 5, inclusive.

For purposes of this section:

(1) "Direct Services" means services provided to a student with disabilities by USOE directly, by contract, or through other arrangements, and

(2) "Support Services" includes implementing the Comprehensive System of Personnel Development, recruitment and training of hearing officers and surrogate parents, and public information and parent training activities related to a free appropriate public education for students with disabilities.

3. Annually the USOE shall notify each LEA of the availability of Part B Funds and provide Technical Assistance in the development of the local application.

a. Applications shall be submitted to the Special Education Services Unit for review and recommendation for approval.

b. Personnel of the Special Education Services Unit shall initially review the application for consistency with Federal requirements.

c. A recommendation for approval shall be reviewed by a panel from within the Special Education Services Unit to ensure consistency across the state.

d. The final recommendation shall be submitted to the Superintendency, USOE, and State Director of Special Education for approval.

e. A Local District that receives approval for funding shall be notified in writing of:

(1) the amount of the grant,

(2) the period during which the district may obligate the funds, and

(3) the Federal requirements that apply to the grant.

f. If a local district makes a significant amendment to its application, the district shall use the same procedures as those noted above for submitting an original application. The state's procedures for approving an amended application shall also be the same.

4. If the USOE determines that a school district is adequately providing a free, appropriate public education to all students with disabilities residing in the area served by the school district with state and local funds otherwise available to the school district, the Part B federal funds may be reallocated (or portions of those funds which are not required to provide special education and related services) to other school districts within the state which are not adequately providing special education and related services to all students with disabilities residing in the areas served by the other local educational agencies.

5. The USOE shall not distribute funds to a school district in any fiscal year if the school district:

a. Is entitled to less than $7,500 for that fiscal year unless a cooperative agreement with other school districts can be reached;

b. Is unable or unwilling to establish and maintain programs of free, appropriate public education in the least restrictive environment;

c. Is unable or unwilling to enter into a cooperative agreement with other school districts in order to establish and maintain those programs;

d. Has not implemented the provisions of a due process hearing officer's or review panel's decision which was adverse to the district, a mediated agreement, or a complaint resolution; or,

e. Has failed to develop a corrective action plan satisfactory to the USOE to eliminate compliance deficiencies found through state monitoring, a complaint investigation, or a due process hearing order.

6. If the State does not distribute Part B funds to a school district, the USOE shall use those funds to ensure the provision of a free appropriate public education to students with disabilities residing in the area served by the school district either directly, by contract, or through other arrangements. The State may provide special education and related services in the manner and at the location the State considers appropriate, consistent with the requirements of these Rules.

7. If the local education agency application is found to be in noncompliance with the provisions of the Act and the requirements for submission as described in State Education Agency policy, the local education agency will be given reasonable notice and provided an opportunity for a hearing.

   a. The USOE shall provide the local education agency with notice and an opportunity for a hearing if it alleges that any of the actions by the local education agency violated a state or federal statute or regulation when the State Education Agency:

      (1) orders, in accordance with a final state Program Administrative Review and audit resolution determination, the repayment of misspent or misapplied federal funds; or

      (2) terminates further assistance for an approved project.

   b. The USOE will provide an opportunity for a hearing for any public agency either before or after disapproval of the LEA application which is made under the provisions of IDEA-B or before withholding Part B funds resulting from noncompliance with provisions of the Act by the public agency.

   c. If a public agency disagrees with the decision of USOE, it shall request a hearing within thirty (30) days of the action.

   d. Within thirty (30) days after it receives a request for a hearing, the USOE shall hold a hearing on the record and shall review its action.

   e. No later than ten (10) days after the hearing the USOE shall issue its written ruling, including findings of fact and reasons for the ruling.

   f. If the USOE determines that its action was contrary to State or Federal statutes, regulations, or rules that govern the program, the USOE shall rescind its action.

   g. If the USOE does not rescind its final action, the public agency may appeal the decision to the U.S. Department of Education, Secretary of Education.

      The appeal must be filed within twenty (20) days after the public agency is notified of the final actions of USOE.

   h. If supported by substantial evidence, the U.S. Secretary of Education shall rule in favor of USOE. The public agency may then request judicial review.

   i. The U.S. Secretary of Education may also issue such interim orders to USOE as he or she may decide are necessary and appropriate pending appeal or review.

   j. If the U.S. Secretary of Education determines that the action of USOE was contrary to Federal statutes or regulations that govern the program, the Secretary shall issue an order that requires USOE to take appropriate action.

k. If USOE does not comply with any provision of this section, or with any order of the U.S. Secretary of Education under this section, the Secretary shall immediately terminate all assistance to USOE under the program.

l. The USOE may appeal the decision of the Secretary to the courts for judicial review.

m. The USOE shall make available at reasonable times and places to each local education agency, all records of the agency pertaining to any review or appeal and the local education agency shall be provided records of other applicants upon request.

8. If the USOE determines that a local school district is unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of students with disabilities, a consolidated application for Part B funds shall be required.

a. Annually, the State Director of Special Education shall notify those districts within the state that are required to submit a consolidated application.

b. A consolidated application shall meet the same minimum requirements of a single district application and must be signed by the superintendent of each participating school district.

c. School districts participating in a consolidated application shall be jointly responsible for implementing a program of free appropriate public education for all their students with disabilities.

d. Each school district participating in a consolidated application shall use an accounting system that permits identification of the costs paid for under its subgrant.

e. The state shall not make a subgrant that exceeds the sum of the entitlements of the separate local school districts.

9. The LEA will not use funds under IDEA-B to provide services to students with disabilities unless the agency uses state and local funds to provide services to those students which, taken as a whole, are at least comparable to services provided to other students with disabilities in the LEA.

II. F. Comprehensive System of Personnel Development (CSPD). Each State Plan submitted by the USOE to the United States Department of Education for support under Part B of the Individuals with Disabilities Education Act (IDEA-B) shall include a description of the procedures and activities that the State of Utah will undertake to ensure an adequate supply of qualified personnel necessary to carry out the IDEA-B. Consistent with 34 CFR 300.15 and 300.153, the personnel to be served under the State's Comprehensive System of Personnel Development (CSPD) shall include special and regular education and related services personnel and leadership personnel.

The State's procedures and activities must include the development, updating, and implementation of a Personnel Development Plan (PDP) that:

1. Addresses current and projected special education and related services personnel needs, including the need for leadership personnel;

2. Coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds and personnel with disabilities;

3. Ensures that all personnel necessary to carry out the purpose of the Utah Code Annotated (UCA) 53A-15-301, as well as the IDEA-B, are qualified and that activities sufficient to implement the Personnel Development Plan (described in Rule II.F.4) are scheduled. These procedures shall ensure that all public and private institutions of higher education and other agencies and organizations in the State which have an interest in the preparation of personnel for the education of students with disabilities have an opportunity to participate fully in the development, review and annual updating of the Comprehensive System of Personnel Development (CSPD). Three pivotal mechanisms for ensuring full public participation, on an annual basis, in the development of the CSPD are:

   a. The leadership of the Special Education Consortium for CSPD, the CSPD Council, and the State Advisory Committee for the Handicapped;

   b. Annually-updated data contained in the local Personnel Development Plan (PDP) and submitted by local educational agencies (see Rule VI.B);

   c. The existing statewide technical assistance network (see Rule II.D).

4. The Statewide Personnel Development Plan (PDP), in combination with annually-updated local Personnel Development Plans (PDPs), (see Rule VI.B), provides a structure for annual personnel planning for both preservice and continuing education needs. The Statewide PDP:

   a. Describes the results of the annual needs assessment (as detailed in Rule II.F.5.b) with respect to identifying needed areas of continuing education and preservice training;

   b. Identifies the target population for personnel development, including general education and special education instructional and leadership personnel and related service providers;

   c. Describes the content and nature of training for each area of continuing education and preservice training;

   d. Details how continuing education and preservice training will be provided in terms of:

(1) geographic scope (such as Statewide, regional, or local);

(2) training source (such as college and university personnel, State and local education agency personnel, ULRC personnel, and non-agency personnel).

e. Specifies the funding sources to be used to implement the Personnel Development Plan;

f. Identifies the time frame for conducting continuing education and preservice training activities under the Plan (PDP); and

g. Specifies procedures for the effective evaluation of the extent to which the objectives of the PDP and its programs are met.

5. The continuing education of general and special education instructional and leadership personnel and related service providers will be administered in conformance with the following standards:

a. Continuing education is defined as any training other than that received by an individual in a full-time program which leads to a degree;

b. The USOE will conduct an annual assessment of continuing education and preservice needs to determine if a sufficient number of qualified personnel are available in the State. In conformance with the data requirements contained in II.F.9, this needs assessment shall identify:

(1) the need for new personnel; and

(2) the need for retrained personnel.

c. A Statewide program of continuing education shall be developed and implemented each year and must:

(1) be based on the assessed needs of Statewide significance (as determined by the annual needs assessment described in Rule II.F.5.b);

(2) be available to all personnel who are engaged in the education of students with disabilities;

(3) describe the areas, including the content and nature of programming in which training is needed; and

(4) detail the specific groups requiring training.

d. Provisions which allow the USOE to enter into contracts with institutions of higher education, local education agencies or other agencies, institutions, or organizations (which may include parent, disabilities organizations, or other advocacy organizations), to carry out:

(1) experimental or innovative personnel development programs;

(2) development or modification of instructional materials; and

(3) dissemination of significant information derived from educational research and demonstration projects; and

e. The use of incentives which ensure:

(1) the participation by teachers (such as released time, payment for participation, options for academic credit, salary step credit, certification renewal, or updating of professional skills;

(2) the involvement of all local staff necessary to carry out the purposes of the IDEA-B and UCA 53A-15-301; and

(3) the utilization of innovative practices which have been found to be effective.

6. The Personnel Development Plan shall include the State of Utah's procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from educational research and other sources. Dissemination includes:

a. Making those personnel, administrators, agencies and organizations necessary for the provision of special education and related services aware of the information and practices (i.e., in conjunction with the Statewide Personnel Development Plan (PDP) or through other on-going State mechanisms);

b. Training designed to enable the establishment of innovative programs and practices targeted on identified local needs; and

c. The use of instructional materials and other media for personnel development and instructional programming.

7. As shall be described in each USOE submission of the State Plan under Part B of the Individuals with Disabilities Education Act (IDEA-B), the USOE shall ensure through the PDP:

a. Procedures for adopting, if appropriate, promising practices, materials, and technologies proven effective through research and demonstration;

b. The on-going reassessment of educational practices used in the State; and

c. The identification of State, local, and regional resources (human and material) which will assist in meeting Utah's personnel preparation needs.

8. Technical assistance will be provided by the USOE to the local educational agencies in their implementation of the State's Comprehensive System of Personnel Development.

9. The State's Comprehensive System of Personnel Development (CSPD) must incorporate and the USOE's Personnel Development Plan (see II.F.5.b) must describe a system for determining, on an annual basis:

   a. The number and type of personnel including leadership personnel, employed in the provision of special education, by profession or discipline;

   b. The number and type of personnel who are employed with emergency, provisional, or temporary certification in each profession or discipline who do not hold appropriate State certification, licensure, or other credentials comparable to certification or licensure in that profession or discipline; and

   c. The number and type of personnel, including leadership personnel, in each profession or discipline needed, and the projection of the number of those personnel that will be needed in five years, based on projections of individuals to be serviced, retirements, and other departures of personnel from the field, and other relevant factors.

10. The data on special education and related services required under II.F.9 of these Rules shall include audiologists, counselors, diagnostic and evaluation personnel, home-hospital teachers, interpreters for students with hearing impairments including deafness, occupational therapists, physical education teachers, physical therapists, psychologists, rehabilitation counselors, social workers, speech-language pathologists, teacher aides, recreation and therapeutic recreation specialists, vocational education teachers, work study coordinators, and other instructional and non-instructional staff.

11. The data on leadership personnel required under II.F.9 of these Rules shall include administrators and supervisors of State or local agencies who are involved in the provision or supervision of services or activities necessary to carry out the purposes of the IDEA-B and UCA 53A-15-301.

12. The State's Comprehensive System of Personnel Development (CSPD) shall enable the USOE to determine, on an annual basis, the institutions of higher education within Utah that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including:

   a. The numbers of students enrolled in programs for the preparation of special education and related services personnel administered by these institutions of higher education; and

   b. The numbers of students who graduated during the past year with certification or licensure, or with credentials to qualify for certification or licensure, from programs for the preparation of special education and related services personnel administered by institutions of higher education.

II. G. Personnel Standards. Consistent with the provisions of Part B of the Individuals with Disabilities Education Act (IDEA-B), 34 CFR 300.153, the State of Utah has established and maintains standards to ensure that personnel necessary to carry out the purposes of the IDEA-B, as well as the provisions of UCA 53A-15-301, are appropriately and adequately prepared and trained.

The USOE's system for ensuring that special education personnel, related service providers, and leadership personnel are appropriately and adequately prepared and trained includes:

1. Conformance with the following definitions:

   a. "Appropriate professional requirements" are those entry level requirements that are based on the highest requirements in the state applicable to the profession or discipline in which a person is providing special education or related services, and that establish the qualifications for personnel providing such services under UCA 53A-15-301 and the IDEA-B to students with disabilities who are served by state, local, and private agencies;

   b. "Highest requirements in the state applicable to a specific profession or discipline" are the highest entry-level academic degree needed for any state-approved or recognized certification, licensing, or registration or other comparable requirements that apply to that profession or discipline;

   c. "Profession or discipline" is a specific occupational category that: (a) provides special education and related services to students with disabilities under this UCA 53A-15-301 and the IDEA-B, (b) has been established or designated by the state, and (c) has a required scope of responsibility and degree of supervision; and

   d. "Qualified" means that a person, in accordance with the provisions contained in 34 CFR 300.153, has met state educational agency approved or recognized certification, licensing, registration, or other comparable requirements for the profession of discipline in which the person is providing special education or related services.

2. In order to ensure that all personnel necessary to carry out the purposes of UCA 53A-15-301 and Part B of the IDEA are appropriately and adequately prepared and trained, the USOE shall annually determine that all personnel providing special education or related services perform these functions under state-approved or recognized certification, licensure, or other comparable requirements that apply to the area in which the person is providing instruction or other service.

3. On or before September 1st each year, the Utah State Office of Education shall review the professional requirements in the state necessary for the provision of special education and related services. This professional standards review includes the standards of the Utah State Office of Education, as well as the Division of Occupational and Professional Licensing of the State's Department of Commerce and any other body responsible for licensure or certification. In conducting this review, the USOE must undertake the following activities:

a. Determine the highest standards applicable to each profession or discipline;

b. Identify those professions or disciplines for which the highest personnel standards of the state do apply;

c. Identify those professions or disciplines for which the highest personnel standards of the state do not apply; and

d. For those professions or disciplines for which the highest requirements of the state do not apply, detail steps the state is taking to require the retraining or hiring of personnel that meet the appropriate professional requirements in the state.

The results of the review conducted in accordance with these Rules shall be described in a report prepared for and submitted to the Utah State Board of Education Advisory Committee for the Handicapped. Each annual report and necessary supporting documentation shall be maintained in the files of the Utah State Office of Education. Each report shall be incorporated in the appropriate State Plan for the Individuals with Disabilities Education Act, Part B, submitted to the U.S. Department of Education every three years.

II. H. Student Identification, Location, and Evaluation. The Utah State Board of Education shall develop policies and procedures for ensuring that all students with disabilities, birth through twenty-one, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated, including students in all public and private agencies and institutions in the State.

Major components of the Child Find System shall include:

1. Statewide coordination of Child Find activities, including the provision of on-going technical assistance;

2. Implementation of the statewide data collection system for reporting student information, including Federal child count;

3. Annual evaluation of local educational agency child find procedures through IDEA-B application process;

4. On-site monitoring of child find procedures through Program Administrative Review (PAR) process; and

5. Collaboration with the lead agency having responsibility for providing early intervention services for infants and toddlers with disabilities, ages birth through two.

6. Collaboration with other state operated programs (i.e.: USDB, State Department of Health) in identification of students with disabilities.

II. I. State Advisory Panel on Special Education. The Utah State Board of Education shall appoint an Advisory Committee for the Handicapped (USBEACH).

1. The membership of the State Advisory Committee, on which each member shall serve one three-year appointment, shall include, but not be limited to, the following representatives:

   a. individuals with disabilities;

   b. teachers of students with disabilities;

   c. parents of students with disabilities;

   d. state and local educational officials;

   e. special education program administrators; and

   f. university faculty responsible for the professional preparation of teachers and related service providers.

   g. at the discretion of the State Board of Education, the committee may be expanded to include additional members who are involved in or concerned with the education of students with disabilities.

2. The functions of the State Advisory Committee shall include, but not be limited to, the following:

   a. advise the State Board of Education of unmet needs within the state in the education of students with disabilities;

   b. comment publicly on:

      (1) Utah's submission of the State Plan required under the provisions of Part B of the Individuals with Disabilities Education Act (IDEA-B); and,

      (2) Rules proposed for issuance by the state regarding the education of students with disabilities and the procedures for the distribution of IDEA-B funds;

   c. assist the State in developing and reporting information and evaluations as may assist the Secretary of the U.S. Department of Education in the performance of his/her responsibilities under Section 618 of the Individuals with Disabilities Education Act;

   d. participate in the development and implementation of the State's Comprehensive System of Personnel Development;

   e. assist in the development and implementation of interagency agreements; and,

f. participate in on-site monitoring activities of the State Special Education Section in an observational role.

3. The State Advisory Committee shall:

a. meet as often as necessary to conduct its business;

b. by July 1 of each year, submit an annual report of State committee activities and suggestions to the State Office of Education. This report shall be made available for dissemination to the public;

c. ensure that official minutes of committee meetings shall be maintained and shall be made available to the public on request;

d. publicly announce (prior to the meeting) all State Advisory Committee sessions, and ensure that these meetings are open to the public;

e. ensure that interpreters and other necessary services are provided at committee meetings for panel members or participants.

4. The members of the State Advisory Committee shall serve without compensation, but the State shall reimburse committee members for reasonable and necessary expenses for attending meetings and performing duties.

II. J. Records Retention Requirements. As required by federal regulations, all records related to Federal grant funds and compliance shall be retained by the State and a subgrantee (i.e., LEA, SOP, other) for five years (or longer if under an audit exception) after completion of the activity for which they used grant or subgrant funds.

1. Records related to grant funds shall be kept that fully show:

a. The amount of funds under the grant;

b. How the funds were used;

c. The total cost of the project;

d. The share of that cost provided from other sources; and,

e. Other records to facilitate an effective audit.

2. Records related to program compliance shall include:

a. Interim and Final PAR reports;

b. Negotiated action plans, including documentation of corrective actions taken by the agency;

c. Actions taken by a public agency to resolve a formal complaint with USOE;

d. Documentation supporting the implementation of a Hearing Officer's final decision in a due process hearing;

e. SCRAM (Self Contained Resource Accounting Method) Documents, to include, but not be limited to, entry/exit dates, locations, and service pattern/times; and,

f. Individual student records, including IEPs, evaluation data, and required consent and prior notice forms.

II. K. Private School Approval. The Utah State Office of Education shall ensure that a student with disabilities who is placed in or referred to a private school or facility by a public agency as a means of providing special education and related services has all the rights of a student with disabilities who is served by a public agency (see Rule IV.M and Appendix A). Annually, the State Director of Special Education shall develop and disseminate a list of approved private schools to all applicable agencies within the State.

II. L. Dissemination of Information. The Utah State Office of Education shall disseminate information throughout the State on program requirements and successful practices in the education of students with disabilities. This shall be on-going and include activities such as conducting statewide inservice training, publishing annual committee reports, developing technical assistance papers, and sponsoring State conferences.

II. M. Federal Program Coordination. The coordination of federal program activities including funding is vested in the State's Coordinating Council For People With Disabilities (CCPD). One of the major responsibilities of this interagency council is to identify the financial obligation of each member agency for providing students with disabilities with a free and appropriate public education. In addition, the CCPD provides a mechanism for statewide planning and information sharing on programs for persons with disabilities (see Section II.O and Appendix F).

II. N. Fiscal Auditing Procedures.

1. The Utah State Office of Education shall adopt and implement fiscal auditing procedures consistent with Federal single audit requirements. Annually, the Division of School Finance and Business shall conduct an on-site audit review of special education program records in every school district in the State. The results of these reviews shall be shared with the Special Education Unit for the primary purposes of:

   a. coordinating the in-service training of district personnel in record keeping procedures; and,

   b. incorporating the findings into the State's Program Administrative Review process in order to reduce duplication of effort.

2. The major components of the State's fiscal auditing process for Special Education Programs shall include:

a. Program Objectives

The objective of the Division of Assistance to States, Office of Special Education Programs, U.S. Department of Education, is to assist states in providing a free appropriate public education to all students with disabilities.

b. Program Procedure

Grants are made to states, following submission of an acceptable three year plan, based on a certified count of students with disabilities receiving special education and related services. The SEA, in turn, funds local educational agencies that submit applications to the USOE for approval.

c. Compliance Requirements and Suggested Audit Procedures

(1) Types of Services Allowed or Unallowed

(a) Compliance Requirements: The state may expend Federal funds only for administration of the state plan, which includes planning at the state level; approval, supervision, monitoring and evaluating the effectiveness of local programs and projects for the education of students with disabilities; technical assistance to LEAs; leadership services for program supervision and management of special education activities for students with disabilities; other state leadership activities and consultative services; and other direct and support services. (34 CFR 300.621, 300.370) State Special Education Funds may only be used for direct costs of Special Education Programs (see Rule VII.A.5.). Suggested Audit Procedure: Test expenditure and related records.

(b) Compliance Requirements: Up to 25% of the IDEA-B Federal funds can be set aside by the state for administrative costs and for direct or support services to students with disabilities managed directly by the state. (34 CFR 300.706(a), 300.620, 300.370).

The remainder, i.e., not less than 75% of the Part B Federal funds, must be distributed to LEA's. (34 CFR 300.706(b)).

Suggested Audit Procedure: Review financial records and determine amounts (i) expended for administrative costs and direct and support services; and (ii) distributed to LEAs.

(c) Compliance Requirement: No more than 5% of the allocation to the state or $450,000, whichever is greater, can be expended by the state on administrative costs. (34 CFR 300.620)

Suggested Audit Procedure: Test expenditure and related records.

(2) Eligibility

(a) Compliance Requirement: Only those students determined to have intellectual disabilities, hearing impairments, deafness, communication disorders (speech and language impairments), visual impairments, behavior disorders, orthopedic impairments, other health impairments, specific learning disabilities, dual sensory impairments, autism, traumatic brain injuries, multi-disabilities, or developmental delays and who, because of these disabilities, need special education and related services, are eligible for participation in this program and may be counted. (34 CFR 300.5(a), 300.530-543, 750-754) Suggested Audit Procedures: Ascertain procedures established by the state to verify the number of participants and evaluate for adequacy.

Ascertain whether actual procedures conform to established procedures.

For audits of LEAs, review procedures for determining participant eligibility and evaluate for adequacy.

Review selected pupil records and determine whether prescribed procedures were followed.

(b) Compliance Requirement: The state is required to ensure the availability of a free, appropriate public education to students with disabilities in local districts where there are too few students with disabilities for the local district to receive funds, i.e., the LEA does not have enough disability count to reach a $7,500 minimum or when the LEA has not submitted an appropriate plan. Individuals with Disabilities Education Act, Part B, as amended by P.L. 94-142, Sec. 611(c)(4)(a)(i)), (Sec. 611(c)(4)(a)(ii)) Suggested Audit Procedures: Examine state records and determine whether there are local districts ineligible to receive these funds.

Ascertain whether the state provided services in lieu of the local district.

(3) Matching, Level of Effort, and/or Earmarking Requirements

Compliance Requirement: Except for the state set-aside, Federal funds cannot be used to supplant state or local funds. (34 CFR 300.230)

Suggested Audit Procedure: Ascertain expenditure of state (or local) funds in prior and current years for education of students with disabilities.

(4) Reporting Requirements

Compliance Requirement: The following financial reports must be submitted periodically:

- Request for Reimbursement
- Financial Status Report
- Recipient Report of Expenditures

Suggested Audit Procedures: General requirements - federal financial reports.

(5) Special Test and Provisions

Compliance Requirement: The state is required to redistribute to other local districts funds that local districts are unable to spend in the period of availability of the grant. (20 USC 1411(g)(2))

Suggested Audit Procedure: Examine the state's procedures for monitoring expenditures and reallocating to local districts and evaluate for adequacy.

II. O. Annual Evaluation of Program Effectiveness. The Utah State Office of Education shall develop procedures for annually evaluating the effectiveness of special education programs in meeting the educational needs of students with disabilities, including the evaluation of individualized education programs. These procedures shall be developed in concert with all public agencies in the state that are involved in the education of students with disabilities.

II. P. Interagency Collaboration. The State Office of Education, the State Department of Human Services, the State Department of Health and the affected school district shall cooperatively develop a single, coordinated education and treatment program for each student with disabilities who require special services from both the public schools, and either or both of the departments. Distribution of payments should be determined through a process established by the state board and the affected department or departments. The Coordinating Council for People with Disabilities (CCPD), mandated by U.C.A. 62A-5a-103 (see Rule II.M.), shall be used to arbitrate, on a state level, any disagreements between the school districts and the departments. Each school district shall participate in a Local Interagency Council which addresses interagency concerns at the local level. The Council may be a local or a regional council which serves several school districts. Membership on these local councils shall include the local director of special education (or designee), a local representative of DSPD, Rehabilitation, Family Health services, Health Care Financing, and Mental Health, which is parallel to the membership of the CCPD.

III. STUDENT IDENTIFICATION, LOCATION, AND EVALUATION

III. A. Child Find System. Consistent with the requirements of 34 CFR 300.220 and the Utah State Plan for the Individuals with Disabilities Education Act, each local educational agency shall develop procedures which ensure that all students residing within the jurisdiction of the district who have a disability, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated. This shall include a practical method for determining which students are currently receiving needed special education and related services and which students are not currently receiving needed special education and related services.

These procedures shall cover all children birth through twenty-one years of age, including children in all public and private agencies and institutions within the legal boundaries of the school district (see Rule II.H).

III. B. Pre-Referral Procedures. Many students, in the course of their educational experience, exhibit social and/or academic behaviors that appear to interfere with school performance. Most problems can be resolved by the regular education staff utilizing interventions available within the general education program. **The public agency must document a history of failed classroom interventions and/or programs which, however appropriate, proved ineffective, before referring a student for special education evaluation.**

1. The primary purposes of the Pre-Referral process shall be:

   a. assisting in identifying, and establishing interventions and/or programs for students having educational difficulties;

   b. directing, evaluating, monitoring, and documenting pre-referral interventions and/or programs; and,

   c. referring students to special education for a comprehensive evaluation.

2. Special education professionals may be used in a consultative role.

3. Classroom interventions which have proven effective and which may be appropriate, include, but are not limited to:

   a. Parent conference
   b. Parent/student conference
   c. Behavior management techniques
   d. Adjusting academic variables (drop or advance a level, change texts or schedule)
   e. Peer tutoring
   f. Schedule change(s)
   g. In-school time-out
   h. Change of classroom teacher
   i. Placement change within regular education
   j. In-school suspension

k. Home-based reinforcement program
l. Review or adjustment of classroom discipline plan
m. Achievement card
n. Contracting with student, parent and/or teacher

4. Programs which may be appropriate, rather than Special Education, include, but are not limited to, the following:

a. Bilingual education
b. Chapter 1
c. Counseling in group or individual meetings
d. Elementary guidance program
e. Gifted program
f. Indian education
g. Parent education resource center
h. Special needs program
i. Vocational education
j. Migrant education
k. Drug and alcohol education
l. Youth in custody programs
m. Other programs, as appropriate

5. If school personnel determine that referral to Special Education is necessary, a record of the results of the pre-referral interventions implemented shall be attached to the referral. The team shall review the student's previous school performance.

6. Each public agency shall establish a system for managing its pre-referral process which may include the use of a school based teacher assistance team.

III. C. Referral for Evaluation. If school personnel determine that the referral options available in regular education have been exhausted and there is a possible need for special education and related services, the student shall be referred to Special Education Services staff for a comprehensive evaluation. Parental requests for evaluation shall be submitted to Special Education Services for review and recommendation.

The right of a parent to refer a student for evaluation shall not be denied or delayed by the pre-referral procedures listed in Section III.B above. In the case of a parental referral, every effort must be made to implement pre-referral procedures, Rule III. B.

Each school district shall have written procedures for making a referral for an individual evaluation and the actions to be taken on the referral.

NOTE: Written parental permission for testing must be obtained before a student is evaluated for the first time. Prior notice must also be given at the same time initial parental permission is being requested (see Rule III.D below).

For a student being initially evaluated, a public agency has thirty (30) days from the date parental permission for testing is received to begin the evaluation process.

III. D. Prior Notice and Parental Consent. Each public agency shall establish and implement policies and procedures which meet the requirements of 34 CFR 300.504-505, and the Utah State Plan for the Individuals with Disabilities Education Act.

1. Prior Notice

The written notice provided to the parents of a student with disabilities will be made available at a reasonable time before the public agency proposes to change the identification, evaluation or educational placement of the student or to provide a free and appropriate public education or if the public agency refuses to change the evaluation, identification or educational placement or to provide a free and appropriate public education. The notice must include:

a. A full explanation of the PROCEDURAL SAFEGUARDS, including due process procedures, protection in evaluation procedures, least restrictive environment, independent educational evaluation and confidentiality of information.

b. A description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take action, and a description of any options the agency considered and the reasons why those options were rejected.

c. A description of the evaluation procedures, tests, records or reports the agency uses as a basis for the proposal or refusal.

d. A description of any other factors which are used or are relevant to the agency's proposal or refusal.

e. Language understandable to the general public.

f. A statement in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

g. Translation orally or by other means designed for the parent in his or her native language or other mode of communication.

h. Reasonable assurance that the parent understands the content of the notice.

i. Written or other documentation that the requirements of this section have been met.

NOTE: Under Part B of IDEA, the procedural safeguards provisions, including the prior notice requirements, are written in terms of "Parent Rights" not "Student Rights." The fact that a student has reached the age of majority, or emancipated, and has not been declared incompetent by the courts, has no bearing on providing prior notice to the parents (see IV.H.9, Graduation).

2. Consent

Parental consent must be obtained prior to:

a. Conducting a preplacement evaluation; and

b. Initial placement of the student with disabilities in a program providing special education and related services. Except for preplacement evaluation and initial placement, consent may not be required as a condition of any benefit to the parent or student.

c. Parental consent must be obtained before personally identifiable information is:

(1) Disclosed to anyone other than officials of school districts or public agencies collecting or using the information for educational purposes.

(2) Used for any purpose other than for which permission was given.

d. The parents of a student with disabilities shall be given an opportunity to inspect and review all education records in accordance with the procedures in Section IV.R. of these Rules, with respect to:

(1) The identification, evaluation, and educational placement of the student, and

(2) The provision of a free appropriate public education to the student.

e. Parents may revoke their consent prior to the time a school district conducts a preplacement evaluation, makes an initial placement, or completes an IEP. If a parent revokes consent, a school district is still obligated to continue its attempts to obtain parental consent. This may include home visits, parent conferences, follow-up correspondence or any other actions deemed appropriate by school personnel. If unsuccessful, the district may use the procedures outlined below.

3. Procedures Where Parent Refuses Consent

Before a student with disabilities is evaluated or initially provided special education and related services, the public agency may use a due process hearing to determine if the student may be evaluated or initially provided special education and related services without parent's consent, subject to the parent's right to appeal the decision.

III. E. Protection In Evaluation Procedures. Each public agency shall establish and implement procedures which meet the requirements of 34 CFR 300.530-534, and Utah State Plan for the Individuals with Disabilities Education Act.

Before any action is taken with respect to the initial placement of a student with a disability in a special education program, a full and individual evaluation of the student's educational needs must be conducted in accordance with the following requirements:

1. Tests and other evaluation materials are provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so.

2. Tests and other evaluation materials have been validated for the specific purpose for which they are used.

3. The district or agency is responsible for assuring that evaluation materials and procedures are appropriate for students of all racial and ethnic groups being considered for placement in a special education program. Accordingly, where present testing and evaluation materials and procedures have an adverse impact on members of a particular race, persons of a national origin, or sex, additional or substitute materials and procedures which do not have such an adverse impact must be employed when evaluating such students for eligibility for a special education program.

4. Data collection, including evaluation of the student, must be conducted by a multidisciplinary team including at least one teacher, or other specialist, knowledgeable in the area of the student's suspected disability. (Parents constitute a valuable source of information concerning their child in the evaluation, diagnostic, and eligibility determination process, and should be included whenever possible.)

5. No single procedure or test is to be used as the sole criterion for classification or determining an appropriate educational program for a student (see criteria for classification according to each disabling condition, section III.H).

6. Tests must be selected and administered to ensure that results obtained from testing a student with impaired sensory, manual, or speaking skills accurately reflect his/her aptitude or achievement levels, and not the deficit (except where those skills are the factors which the test purports to measure).

7. Tests and other evaluation materials must be administered by trained personnel in conformance with the instructions provided by their producer(s).

8. All individually administered diagnostic/evaluation protocols and all reports including observations, drawings, and teacher-made tests, must be signed by the evaluator with full name and evaluation dates (month, day, and year).

9. The student is assessed in all areas related to the suspected disability including, where appropriate, health, vision, hearing, social plus emotional status, general intelligence, academic performance, communicative status, motor abilities.

10. When interpreting evaluation data and making placement decisions, the multidisciplinary team must utilize information from a variety of sources which may include, but not be limited to, aptitude and achievement tests, teacher

recommendation, physical condition, social or cultural background and adaptive behavior. The placement team must, in addition, assure that:

a. In interpreting evaluation data and in making placement decisions, each public agency shall:

(1) Ensure that information obtained from sources used is documented and carefully considered;

(2) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data and the placement options;

(3) Changes in the student's special education placement will be based on the student's current individualized education program, other information relating to his/her current educational performance, and existing formal evaluation data on the student which is not more than three years old. Problems of reliability and validity of data should be noted and considered by the team; and

(4) Ensure that the placement decision is made in conformity with the least restrictive environment.

b. If a determination is made by the team that a student has a disability and needs special education and related services, an Individualized Education Program shall be developed for the student within thirty (30) calendar days, but services may not begin until the IEP is developed.

III. F. Independent Educational Evaluation. Each public agency shall establish and implement policies and procedures which meet the requirements of 34 CFR 300.503, and the Utah State Plan for the Individuals with Disabilities Education Act.

The following requirements must be addressed:

1. Each parent of a student with a disability has a right to obtain an independent educational evaluation of the student. The independent evaluation must be conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student.

2. The public agency will maintain information about where an independent educational evaluation may be obtained and provide this information to the parent upon request.

3. The independent evaluation must be at public expense if the parent disagrees with the evaluation obtained by the public agency. The public agency, however, may initiate a due process hearing to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent maintains the right to an independent educational evaluation but not at public expense.

4. Where a parent initiated an independent evaluation of a student with a disability at the parent's expense, the results of the evaluation, when provided by the parents to the public agency:

   a. Must be considered by the public agency in decisions made with respect to providing a free and appropriate public education, and

   b. May be presented as evidence at a due process hearing pertaining to that student.

5. When a request for an independent educational evaluation is made by a hearing officer, the evaluation must be at public expense.

6. Whenever an independent evaluation is made at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation, must be consistent with that criteria the public agency utilizes when it initiates an evaluation, and must meet the minimum standards established by the USOE.

III. G. Classification Process. Eligibility determination and classification of the student must be made by a multidisciplinary team or group of qualified professionals. The parent should be included whenever possible, and will be fully informed of the student's disability. The district must classify each person to receive services with a primary disability according to one of the categories stated in the school finance law in accordance with the definitions and Rules approved by the State Board of Education. This classification must be justified based on information gathered in the evaluation process.

Classification conducted for the purpose of determining eligibility shall include persons knowledgeable about the student and the meaning of the evaluation data. In those cases where a student is suspected of being learning disabled, the student's regular classroom teacher must also be in attendance. Meetings held for students with behavior disorders must include a mental health worker. For example, this requirement may be fulfilled by a psychologist, social worker, school counselor, teacher qualified to teach the behavior disordered, or designated psychological examiner.

The results of classification decisions shall be documented by the multidisciplinary evaluation team. This documentation along with the individual evaluation results completed by each team member, including diagnostic protocols, shall be maintained in a student's confidential folder.

NOTE: For students classified as learning disabled, an LD team report is also required, in addition to the above information (see Rule III.H.3).

III. H. Categorical Criteria and Tests. This section specifies the criteria, by category, for determining eligibility for a student with disabilities under Part B of IDEA, including testing procedures. (See definitions, Rule I.E)

1. **Autism.** A developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three, that adversely affects educational performance. The condition includes disturbances of:

a. capacities to relate to people, events, and objects;

b. speech, language and cognitive capacities;

c. responses to sensory stimuli;

d. bizarre responses to various aspects of the environment;

Examples: Resistance to change, including catastrophic reactions to minor changes in the environment (e.g., screaming, destructive), peculiar interest in or attachment to objects (e.g., insists on always carrying a string or rubber band). Ritualistic compulsive and stereo-typed behaviors with disturbances in response to sensory stimuli, (e.g., close scrutiny of visual details), staring, prolonged regarding of hands or objects, attention to changed levels of illumination, hand flapping, rocking, teeth grinding, close attention to self-induced sounds. Non-response or over-response to varying levels of sound, over- or under-response to touch, pain, temperatures, prolonged rubbing of surfaces, whirling without dizziness, preoccupation with spinning objects, repetitive sniffing, licking of inedible objects, posturing, darting-lunging movements, grimaces, and other self-stimulatory or self-injurious behaviors.

e. disturbances of developmental rates and sequences.

Examples: Delays, arrests and/or regression occur among or within one or more pathways, e.g., gross motor was fine and/or motor development may be normal until age two when walking stops, speech may develop normally until 18 months when abruptly ceases, imitative behavior and/or speech may be delayed in onset until age three, followed by rapid acquisition to expected developmental level.

The above is distinguished from mental retardation only, in which developmental delays usually occur in all areas, and developmental sequences (social, motor, cognitive) remain coordinated. In mental retardation only, responses to sensory inputs, people and objects, and speech and language development are appropriate to the overall developmental level of cognitive functioning.

f. absence of delusion, hallucinations, lessening of associations and incoherence as in schizophrenia.

g. Characteristics and descriptors of autism, include:

(1) typically onset before 36 months of age.

(2) pervasive lack of responsiveness to other people.

Examples: Lack of interest in people, "see through" or relates to people as if they are objects. In infancy, lack of attachment behavior (poor facial responsiveness, avoids cuddling, poor anticipatory posture). As

toddlers, they tend not to follow parents around the house or seek comfort. After five, failure to make personal friendships, lack of empathy, failure to perceive other people's feelings and responses resulting in inappropriate social behavior. The above are considered in the context of the student's abilities but cannot be explained by mental retardation only.

(3) gross defects in language development.

Examples: Marked delay in language development or lack of language development. Deficits in pre-language skills including early failure to show social imitation, delay in meaningful use or inappropriate use of objects, lack of imaginative creative pretend play, lack of varied babble. Impaired receptive language (difficulty in following simple instructions in novel context without the use of gesture, or in situations involving the combination of two or more ideas). May lack gesture and mime, may take adult by wrist rather than by hand to make need known, may point with either hand rather than index finger. May not gesture at all.

(4) if speech is present, peculiar speech patterns such as immediate and delayed echolalia, metaphorical language, pronominal reversal.

Examples: Echoing what others say, using the pronoun "You" when "I" is the intended meaning, lack of to and from chatter with reciprocal interaction, difficulty in talking about anything outside of the immediate situation. Failure to develop abstract concepts and reasoning. Peculiar utterances used by the student, the meaning of which is not clear. Abnormal speech melody such as computer-like voice or question-like rises at the end of statements.

Eligibility is to be determined by a multifactored evaluation provided by a qualified multidisciplinary diagnostic team. Multiple standardized measures should be used to assess intellectual, academic and adaptive functioning and may be supported by informal and curriculum based assessments. Assessment guidelines for students with multiple disabilities should be adhered to when assessing the educational performance levels of students with autism.

Adaptive behavior is defined as the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of pupils of comparable age and cultural group. Deficits in adaptive behavior as measured on standardized and curricular based assessment information gathered from parents and team members must be identified and addressed in the student's IEP and instructional programming.

The student's prior medical and developmental history should be obtained from the private physician to provide information regarding

specific syndromes, special health problems (e.g. tracheotomy), medication, and long term medical prognosis for the individual.

Every student classified as autistic will have been rated on an age appropriate and technically adequate behavior rating scale. It is suggested that the "Remland (E-2) Autism Checklist" or the "Autism Screening Instrument for Educational Planning" by Krug, Arick and Almond be used. The rating instrument should be completed by both a parent and a teacher.

Assessment must demonstrate that the student is not manifesting an emotional disturbance or intellectual disability as a primary disabling condition.

2. **Behavior Disorders.** A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; and a tendency to develop physical symptoms of fears associated with personal or school problems. The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have a serious emotional disturbance.

The first step in referring a student for special education services is the documentation by the LEA of the specific results of a history of failed classroom interventions which, however, appropriate, proved ineffective. Documentation of specific results of failed appropriate interventions must also accompany referrals to more restrictive settings.

a. Behavior disorders is used as a generic term to cover two types of behavior difficulties which are not mutually exclusive but which adversely affect educational performance.

(1) Externalizing refers to behavior problems that are directed outwardly by the student towards the social environment and that usually involve behavioral excesses.

(2) Internalizing refers to a class of behavior problems that are directed inwardly and often involve behavioral deficits.

NOTE: The above definition describes students who are severely emotionally disturbed as defined under the Severely Emotionally Disturbed definition in 34 CFR 300.7, regulations under IDEA-B, and USOE Rule I.E.5. The definition also includes students who are schizophrenic but does not include students who are socially maladjusted, unless it is determined that they are behavior disordered.

b. Before classifying a student as primarily behavior disordered, it must be determined that:

(1) The student is not primarily identified as manifesting one of the other disabling conditions described in these Rules.

(2) The student is not behaving as a behaviored student because of vision or hearing impairment.

(3) The student is not behaving as a behavior disordered student because of (1) an inappropriate classroom discipline system, (2) breakdown of classroom discipline, or (3) inappropriate academic instruction or materials.

c. Disclaimer information may include:

(1) Data in the cumulative records.

(2) Interviews and classroom observations.

(3) Evaluations.

d. A complete formal and informal evaluation covering behavior, social, and educational areas is required before classification as behavior disordered.

e. Classroom observation of the student should include at least three fifteen-minute observations on referring behavior pinpoints. A student who is not disabled and who is not being referred must be selected and observed in the same setting on the same behavior pinpoints as the referred student for comparison. It is expected that classroom observations will be made by an assigned member of the assessment team, other than the student's regular teacher. These observations are required only for initial assessment for classification, not for re-evaluation.

f. Every student classified as behavior disordered will have complete documentation in his/her records regarding each of the following areas:

(1) Educational behavior.

Information may include:

(a) classroom academic screenings and tests.

(b) achievement tests.

(c) report cards/cumulative records.

(2) Social/adaptive behavior checklists or scales, and sociometric devices.

Information may include:

(a) student's past and present patterns of interaction with peers, family, teachers, adults, etc.

(b) teacher/parent checklists.

g. Many observation, checklist and other assessment instruments address issues across adaptive and social areas. Scale and checklist must be age appropriate for the student being assessed.

h. Behavior objectives for which the student is referred (initial referrals or referrals to more restrictive settings) must be addressed in the IEP goals and objectives.

i. When a student is classified as behavior disordered or is referred to a more restrictive setting, a plan to return the student to a less restrictive or regular class should be developed specifying appropriate re-entry behaviors and classroom environment.

3. Communication Disorders (Speech/Language/Hearing Impairments)

a. Definitions:

(1) Speech Impairments - Means a communication disorder (CD) such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a student's educational performance.

(2) Articulation - The actions of the organs of speech in producing the sounds of speech.

(3) Language - A code whereby ideas about the world are understood and expressed through a conventional system of arbitrary symbols for verbal/nonverbal communication. Language includes the following:

(a) Syntax System: How words are to be sequenced in utterances and how the words in utterances are related.
(b) Morphological System: How various word forms, grammatical markers, and inflections are derived.
(c) Phonological System: The sounds of language, including speech sounds, speech sound production, and the combination of sounds in meaningful utterances.
(d) Semantic System: The meaning of words and word combinations.
(e) Pragmatic System: The use of language in context.
(f) Auditory Processing System: The processing of language by the brain through hearing.

(4) Mild Hearing Impairments - Mild loss of hearing acuity that may affect understanding of spoken language and/or may affect the accurate production of the sounds of speech. This amount of deficit is not considered as severe as that of deaf/hard of hearing, which require academic tutoring in addition to speech therapy.

(5) Fluency - The smoothness and rate with which sounds, syllables, words, and phrases are joined together during oral language; lack of hesitations or repetitions in speaking. (Stuttering is an example of a fluency problem.)

(6) Voice - Sound produced by the vibration of the vocal folds and modified by the resonators. Components of voice include pitch, intensity, and quality.

(7) Educational Performance - Involves any of the basic skills of reading, math, and communication, both written and oral. (See Appendix A of the USOE Communication Disorders Guidelines for information regarding the Utah Language Arts Core Curriculum.) The term "educational performance" refers to performance in academic as well as nonacademic areas. Educational performance should be determined on a case-by-case basis and must extend beyond academic standards as determined by standardized measures.

b. Classification. The communication disorders specialist's (CDS) or speech-language pathologist's (SLP) diagnosis is required for classification purposes in the multidisciplinary team meeting. The diagnosis of the CDS/SLP (interchangeable terms) indicates that the student has a disorder of speech/language/hearing to such a degree that specialized instruction is necessary. No single procedure may be used as the sole criterion for determining an appropriate educational program for a student. Students who have a speech impairment as their primary (sole) disability may not require a complete battery of assessments (e.g., psychological, physical or adaptive behavior). However, a qualified CDS would (1) evaluate each referred student using procedures that are appropriate for the diagnosis and appraisal of speech/language/hearing disorders, and (2) where necessary, make referrals for additional evaluation(s) needed to make an appropriate classification decision. Administration and interpretation of tests and other evaluation materials for classifying a student as communication disordered are the responsibility of the CDS. (Refer to the Utah State Office of Education CD Guidelines for additional classification information.)

To classify a student as communication disordered (primary or related service) requires:

(1) evidence of a diagnosis by a CDS indicating that the student has a disorder in listening, reasoning, and/or speaking to such a degree that special education is needed.

(2) evidence that classification takes place in a multidisciplinary team meeting.

(3) classification of pre-school students (3-5) with disabilities may be based on Part B or pre-school noncategorical classifications.

c. Evaluation and Classification Considerations

(1) Intellectual Ability. A student being considered for the communication disorder classification as the primary (sole) disability should have intellectual ability above the intellectual disabilities (ID) range on a nonverbal scale. A CDS may presume that the student's intellectual ability is within the normal range unless otherwise indicated by the referring agent. Students whose intellectual functioning level falls below the normal range of intelligence might be served by the CDS as a related service.

(2) Learning Disabilities and Communication Disorders (LD/CD). Research supports the concept that disorders of language are present in many children who manifest learning disabilities. The determination of a primary disabling condition can be difficult when evaluating students with LD/CD due to the complexity of the higher language skills involved in academic learning. Many students could qualify for classification in both areas. It is the responsibility of the multidisciplinary team to determine the appropriate primary classification. It is important that the CDS be a member of the multidisciplinary team which evaluates students suspected of having a learning disability in the areas of oral expression and/or listening comprehension. If the student is to be classified CD, the CDS must be involved in the classification. (See Rule III.H.3.b.)

(3) Traumatic Brain Injuries (TBI). Students with head injuries and similar acquired disorders may present unique communication deficits. Special considerations are necessary during the evaluation and placement process for these students. Also, inservice to other school personnel may be warranted. (See Appendix G of the USOE CD Guidelines and USOE TBI Guidelines for additional information.)

(4) Minority Language Students. In order for a minority language student to be deemed eligible for classification as communication disordered, the multidisciplinary team must determine that the communication disorder exists in the student's native language and is not the result of learning English as a second language. (See Appendix D of the USOE CD Guidelines for more information.)

(5) Orofacial Myofunctional Disorders (OMD) (formerly called Tongue Thrust). Numerous requests are received by the CDS to provide services to students who present OMD. The general policy should be that

the student may be served **if there is an associated communication disorder.** If not, he/she is ineligible to be classified and served using monies for students with disabilities.

4. **Deaf.** A hearing impairment so severe that the student is impaired in processing linquistic information through hearing, with or without amplification, that adversely affects a student's educational performance.

A hearing impairment is a generic classification of hearing loss including the terms "deaf" and "hard of hearing". Hearing loss limits the transmission of sound signals through the human organs of hearing. It includes a conductive or sensorineural loss or combination thereof. A conductive loss results when sound pressure waves are obstructed in the outer or middle ear. A sensorineural loss results when there is damage to the cochlea or auditory nerve. A combined loss occurs when all organs of hearing as described are affected.

Quantitative measurements in decibels or percentages, discrimination scores, or by the qualitative terms of type of hearing loss, site of lesion, etc., must be considered only as important parameters in the diagnostic and education process. Each student's potential must be assessed individually on the basis if not only personality, age when education begins, quality of teaching, attitudes of family, school and community, a multitude of physiological and environmental conditions must be considered. Caution is advised in identifying, diagnosing and evaluating hearing impairments. The student study team must be aware of delimiting definitions to avoid rigid classification and stereotyping in the education placement of each hearing impaired student.

The results of this assessment should be expressed in terms of the student's strengths and needs. The assessment must be comprehensive, using a full range of available instrumentation and observations of behavior including personal case histories, diagnostic tests and other appropriate formal and informal measurements.

Areas of Evaluation

a. Audiological Evaluation

(1) Audiometric including:

(a) Puretone audiometric testing yielding threshold results

(b) Aided threshold evaluations yielding aid threshold results

(c) Speech audiometric tests yielding speech

(d) Discrimination scores and speech reception thresholds

(e) Proper functioning, fitting and follow-up of hearing aids

(2) Auditory Functioning, which may include:

(a) Awareness

(b) Attention

(c) Localization

(d) Discrimination

(e) Memory

(f) Brainstem evoked response

(g) Otoimmittance

b. Psychological Evaluation

Whenever intelligence tests are administered, steps should be taken to assure that the I.Q. scores, per se, will not be used in making inferences about the student's level of intelligence or learning potential; instead, the full test (including protocols, content, subtests, etc.) must be interpreted by qualified personnel.

c. Language Evaluation

Language growth and development (signed, spoken) includes:

(1) Standardized or other objective tests

(2) Subjective reports by teachers, parents and other appropriate persons

(3) Samples of student's sign language skills

(4) Samples of student's spoken language (taped)

(5) Samples of student's written creative composition

d. Speech Evaluation

(1) Speech intelligibility includes:

(a) Phonetic evaluation

(b) Suprasegmental features (vocalization, vocal duration, vocal intensity, vocal pitch)

(c) Articulation of segmental features (vowels, diphthongs, consonants, blends)

(2) Psycholinguistic Evaluation (vocalizations as above within linguistic structure)

e. Evaluation of Academic Achievement

(1) Standardized diagnostic evaluations

(2) Nonstandardized informal group and/or individual evaluations

f. Evaluation of Social and Emotional Development

An assessment should be made of the student's adaptive behavior in the school setting. Information should include:

(1) The student's adaptive behavior in the home, community, neighborhood and school as perceived by his parents and teachers

(2) The sociocultural background of the family

(3) The student's health and developmental history

g. Evaluation of Psychomotor Development

(1) Standardized diagnostic evaluations

(2) Nonstandardized information evaluations

In using these assessment procedures, constant attention should be focused on the possibility of learning problems other than those caused by loss of hearing.

A student may appear to have a hearing loss when in actuality he has a central nervous system impairment. A central nervous system impairment results from a dysfunction along the pathways of the brain from the brain stem to and including the cerebral cortex. This impairment may be highly complex and frequently involves the symbolic processes of the mind in terms of receptive and expressive language. This condition may exist with or without an accompanying hearing loss. Every effort should be made to identify the student with such an impairment in order to identify and create programs that will meet his more complex needs.

h. Support Personnel and Services

Sufficient and appropriate support personnel and services must made readily available in all educational placements. These include, but are not limited to:

(1) Resource, itinerant and/or classroom teachers

(2) Audiological services, including tympanogram analysis, hearing aid analysis and periodic reevaluations of hearing aid settings, diagnosis of

aid or other malfunctions. This shall also include an effective program of hearing aid monitoring.

(3) Social workers, counselors, psychologists

(4) Health services

(5) Oral or manual interpreters

(6) Note takers and tutors

5. **Developmental Delays.** Preschool-aged students, ages 3-5 inclusive, who have been diagnosed as having a significant delay or deficit in one or more areas of development including cognitive, physical, motor, communication, social/emotional, adaptive, vision or hearing. Preschool-aged students can also be classified according to Part B categorical definitions.

Eligibility determination and classification of the student as developmentally delayed must be made by a multidisciplinary team or group of qualified professionals. The parent should be included whenever possible, and will be fully informed of the student's evaluation results. The results of all eligibility meetings shall be documented by the school district. This documentation, along with the individual assessments completed by each team member, including diagnostic protocols shall be maintained in a student's confidential file. The district must identify each student to receive preschool special education services according to the following:

a. Eligibility Criteria

(1) Preschool students who are eligible for services include preschool-aged students who have been diagnosed by a multidisciplinary team as having a significant delay or deficit in one or more of the following areas:

(a) cognitive development

(b) physical/motor development

(c) language/speech development

(d) social/emotional development

(e) self-help skills/adaptive behavior

or as having significant deficits in

(f) vision

(g) hearing

(2) Significant delays are defined as:

(a) 1.5 standard deviations below the mean, or at or below the 7th percentile in three areas of development.

(b) 2.0 standard deviations below the mean, or at or below the 2nd percentile in two areas of development.

(c) 2.5 standard deviations below the mean, or at or below the 1st percentile in one area of development.

(3) Significant vision and hearing deficits are defined in this section.

(4) Students may also be categorically classified as per procedures in this section.

b. Assessment for Classification

(1) The multidisciplinary assessment must address areas of suspected delay in:

(a) cognitive development

(b) physical/motor development

(c) language/speech development

(d) social/emotional development

(e) self help/adaptive behavior

(f) vision

(g) hearing

(2) Assessments selected must be:

(a) developmentally appropriate for preschoolers

(b) selected based upon a student's sensory limits

(c) technically adequate

6. **Dual Sensory Impairments.** Concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the student cannot be accommodated in special education programs solely for children with vision impairments, hearing impairments, deafness, or multi-disabilities.

NOTE: The above definition describes students demonstrating impairments in vision and hearing as defined under deaf-blind in 34 CFR 300.7 of the IDEA-B Regulations.

The student's medical history should be obtained from the private physician to provide information regarding specific syndromes, special health problems (e.g. tracheotomy), medication, and long term medical prognosis for the individual.

A student may be determined eligible for classification as dual sensory impaired when a combination of the following deficits in vision, hearing and education exist:

a. Vision (either of the following):

(1) A report from a qualified professional stating the diagnosis and description of the student's visual impairments and indicating cause, acuity and field of vision.

(2) When visual acuity cannot be definitively measured and the student is suspected of being functionally blind. Functionally Blind means the student does not visually track, localize or use vision appropriate to developmental level as determined by a qualified professional.

b. Hearing (any of the following):

(1) A report from a qualified professional indicating a bilateral conductive or sensorineural hearing loss which cannot be mitigated through amplification, and which adversely impacts the students's educational performance.

(2) A hearing impairment so severe that the student is limited at processing linguistic information through hearing and which adversely effects educational performance.

(3) An impairment sensitivity and/or middle ear functioning which cannot be definitively measured and the student is suspected of being functionally deaf. Functionally deaf means the student does not auditorally attend to, respond to or localize sounds, or use hearing appropriate to developmental level as determined by a qualified professional.

Students who are dual sensory impaired demonstrate a loss of both hearing and vision to such a degree that they cannot be appropriately taught in traditional programs for students who are blind, deaf, or multi-disabled without special assistance by teachers and aides who have also received specific training (preservice and/or inservice) for meeting the needs of students with dual sensory impairments. Students who are dual sensory impaired usually require special education provisions of the type not available in programs designed to serve only one disability or in traditional classrooms serving students with multiple disabilities. The special language, mobility and developmental problems of students with dual sensory impairments place them in a separate category rather than as students with multi-disabilities. The guidelines for educationally assessing students with dual sensory impairments include:

Students who are dual sensory impaired generally are functioning significantly below average intellectually on an appropriately selected, administered and normed assessment. The purpose of assessing the intellectual skills of students with dual sensory impairments is to provide current information on the individual's cognitive functioning. The assessment process is determined by the team and must include a combination of tests, interviews with those familiar with the individual, and observations conducted in settings familiar to the student. Traditional approaches to assessing cognitive ability are of limited value for this population. Limitations include 1) the existence of few measures useful with persons with dual sensory impairments, and 2) the sensory deficits of the student with dual sensory impairments which interfere with responding; thus curricula-based assessment is acceptable as an alternative for identifying intellectual delays. Occasionally, however, traditional assessment instruments may yield unbiased, norm-referenced results unaffected by sensory or language impairments.

Adaptive behavior is defined as the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected for his/her age and cultural group (Grossman, 1973, 1977). Expectations of adaptive behavior will vary at different ages. During infancy and early childhood, the assessment of adaptive behavior will focus on sensory motor skill development; communication skills, including both speech and language; self-help skills, and socialization or development of the ability to interact with others. During childhood and early adolescence assessment will focus on the application of basic academic skills in daily life activities, application or appropriate reasoning and judgement in mastery of the environment and social skills such as participation in group activities and interpersonal relationships. During late adolescence and adult life, vocational and social responsibilities and performances are assessed.

The purpose of assessing adaptive behavior among the dual sensory impaired is to identify those behaviors that impede integration into and/or fuller participation in the community. Adaptive behaviors should be the primary focus of educational programming. The use of alternative strategies to increase independence should also be examined in lieu of traditional academic instruction. Information derived from a variety of adaptive behavior indices, assessing behavior in school and out of school, should be used in decision making.

c. The student with dual sensory impairments frequently has difficulty with listening, reasoning, and/or speaking. The speech-language problem may involve a deficit in:

    (1) Pragmatics (social appropriateness of communication)

    (2) Semantics (meaning and interpretation of words)

    (3) Language (sentence structure)

    (4) Pre-linguistics

        (a) desire/intent to communicate

(b) attending/behavioral problems

(c) environmental interaction/cause-effect

(d) gestural communication

(5) Phonology (sounds and articulation)

(6) Morphology (correct word endings)

(7) Syntax (correct word order)

(8) Voice (volume, hoarseness)

(9) Stuttering

The speech-language problem may call undesirable attention to, or prevent, limit, or interfere with the student's ability to interact and respond appropriately in social, academic and/or vocational situations. The communication skills of students with dual sensory impairments are to be evaluated, as necessary, in the nine previously stated areas using formal standardized testing, informal probes, observations made in a variety of settings, and parent-teacher interviews. Augmented and alternative communication systems which will increase the student's communication skills should be identified.

d. Students with dual sensory impairments and with sensory-motor problems have difficulty with interpreting the environment through their sensory systems or acting on the environment through motor function. In addition to the following areas to be assessed, the multidisciplinary team should identify any assistive devices which will increase student skill acquisition and independence. The problems may involve:

(1) Loss of sight or hearing.

(2) Abnormal tactile or joint sensation.

(3) Abnormal muscle tone and movement.

(4) Lack of integration of primitive reflexes.

(5) Lack of balance or coordination.

(6) Organization of sequential motor movement.

(7) A combination of any of the above.

e. These problems can interfere with learning the simplest tasks and will inhibit independent living, vocational training, and utilization of community

recreation facilities. Each student with dual sensory impairments should have their motor skills evaluated individually using one of the following methods:

(1) Formal standardized testing.

(2) Informal classroom evaluation.

(3) Teacher and parent observations.

(4) Review of medical information.

The student with dual sensory impairments frequently experiences difficulty in production, work-related, and social skills that are critical to participating independently or with support in present and future vocational settings. Vocational assessment is important for identification of vocational skills for training, identification of appropriate vocational environments, matching skills to environments, and planning for future placements in vocational settings.

Students with dual sensory impairments often benefit from and can be served in less restrictive environments through the provision of augumentative communication systems and assistive devices. The evaluation team must conduct an assessment of the student's need for assistive technology which may be required in order for the student to benefit from special education services. School districts who presently do not have in-district capacity for conducting assessments may access augmentative evaluations through one of the regional Utah Augmentative, Alternative, Assistive Communication Teams supported by the Utah State Office of Education Special Education Unit. (UAAACT members are trained to evaluate motor and communication skill relative to assistive technology. However, they are not trained to evaluate or prescribe augmentation for sensory and vision deficits.)

Although standardized assessment is of little programmatic use when teaching students who are dual sensory impaired, it must be conducted for classification purposes. Criterion referenced and augmentative assessments and ongoing progress monitoring are essential for quality IEP development and program implementation with students who are dual sensory impaired. The IEP for students who are dual sensory impaired should address mobility training, alternative and assistive communication techniques, functional skill development, and academic and self-help skills; which when mastered, will increase the student's ability to live and function independently. It is recommended that a UAAACT member or an individual knowledgeable of augmentative communication and assistive device strategies serve on the IEP teams for all students with dual sensory impairments.

7. **Hearing Impairments.** A hearing impairment, whether permanent or fluctuating, which adversely affects a student's education performance, but which is not included under the category of "deaf" in this section.

A "hearing impairment" is a generic classification of hearing loss including the terms "deaf" and "hard of hearing." Hearing loss limits the transmission of sound signals through the human organs of hearing. It includes a conductive or

sensorineural loss or combination thereof. A conductive loss results when sound pressure waves are obstructed in the outer or middle ear. A sensorineural loss results when there is damage to either the cochlea or auditory nerve. A combined loss occurs when all organs of hearing as described are affected.

Quantitative measurements in decibels, discrimination scores, or by the qualitative terms of type of hearing loss, site of lesion, etc., must be considered only as important parameters in the diagnostic and educational process. Each student's potential must be assessed individually on the basis of not only degree of loss or type of loss but age of onset, intelligence, personality, age when education begins, quality of teaching, attitudes of family, school and community, a multitude of physiological and environmental conditions must be considered. Caution is advised in identifying, diagnosing and evaluating hearing impairments. The student study team must be aware of delimiting definitions to avoid rigid classification and stereotyping in the educational placement of each hearing impaired student.

The results of this assessment should be expressed in terms of the student's strengths and needs. The assessment must be comprehensive, using a full range of available instrumentation and observations of behavior including personal case histories, diagnostic tests and other appropriate formal and informal measurements.

Areas of Evaluation

a. Audiological Evaluation

(1) Audiometic including:

(a) Puretone audiometric testing yielding air and bone thresholds.

(b) Aided threshold evaluations.

(c) Speech audiometric tests yielding speech discrimination scores and speech reception thresholds.

(d) Impedance audiometry.

(e) Proper functioning, fitting and follow-up of hearing aids.

(f) Brainstem or other audiometric testing, as needed.

(2) Auditory Functioning including:

(a) Awareness

(b) Attention

(c) Localization

(d) Listening Skills

(e) Discrimination

(f) Memory

(g) Otoimmittance

b. Psychological Evaluation

Whenever intelligence tests are administered, steps should be taken to assure that the I.Q. scores, per se, will not be used in making inferences about the student's level of intelligence or learning potential; instead the full test (including protocols, content, subtests, etc.) must be interpreted by qualified personnel.

c. Language Evaluation

Language growth and development (signed, spoken, or written) includes:

(1) Standardized or other objective tests

(2) Subjective reports by teachers, parents and other appropriate persons

(3) Samples of student's sign language skills

(4) Samples of student's spoken language (taped)

(5) Samples of student's written creative composition

(6) Speech reading, as applicable

d. Speech Evaluation

(1) Speech intelligibility includes:

(a) Phonetic evaluation

(b) Suprasegmental features (vocalization, vocal duration, vocal intensity, vocal pitch)

(c) Articulation of segmental features (vowels, diphthongs, consonants, blends)

(2) Psycholinguistic Evaluation (vocalizations as above within linguistic structure)

e. Evaluation of Academic Achievement

(1) Standardized diagnostic evaluations

(2) Nonstandardized informal group and/or individual evaluations

f. Evaluation of Social and Emotional Development

An assessment should be made of the student's adaptive behavior in the school setting. Information should include:

(1) The student's adaptive behavior in the home, community, neighborhood and school as perceived by his parents and teachers

(2) The sociocultural background of the family

(3) The student's health and developmental history

g. Evaluation of Psychomotor Development

(1) Standardized diagnostic evaluations

(2) Nonstandardized informal evaluations

In using these assessment procedures constant attention must be focused on the possibility of learning problems other than those caused by loss of hearing.

A student may appear to have a hearing loss, when in actuality he has a central nervous system impairment. A central nervous system impairment results from a dysfunction along the pathways of the brain from the brain stem to and including the cerebral cortex. This impairment may be highly complex and frequently involves the symbolic processes of the mind in terms of receptive and expressive language. This condition may exist with or without an accompanying hearing loss. Every effort must be made to identify the student with such an impairment in order to identify and create programs that will meet his more complex needs.

h. Support Personnel and Services

Sufficient and appropriate support personnel and services must be made readily available in all educational placements. These include, but are not limited to:

(1) Resource, itinerant and/or classroom teachers

(2) Audiological services, including impedance, tympanogram analysis, hearing aid analysis and periodic reevaluations of hearing aid settings, diagnosis of aid or other malfunctions. This shall also include an effective program of hearing aid monitoring.

(3) Communication Disorders Specialists

(4) Social workers, counselors, psychologists

(5) Health services

(6) Oral or manual interpreters

(7) Note takers and tutors

8. **Intellectual Disabilities.** A student who demonstrates significantly subaverage intellectual functioning (two standard deviations below the mean) existing. concurrently with deficits in adaptive behavior. These deficits usually emerge during the student's developmental period, and adversely affect educational performance. Students with intellectual disabilities are those individuals who exhibit cognitive and adaptive behavior deficits that are likely to be life-long disabilities which can interfere with independent living.

NOTE: The above definition describes students demonstrating mental retardation as defined in 34 CFR 300.7 of the IDEA-B Regulations.

Many students with intellectual disabilities are capable of primary academic, social and occupational self-sufficiency through regular classroom instruction and special education support services. Some students may require more intensive specialized instruction; however, this instruction should be age appropriate and address functional independence.

Eligibility is to be determined by a multi-factored evaluation provided by a qualified multidisciplinary diagnostic team. Multiple standardized measures across intellectual, academic and adaptive functioning may be supported by informal and curricular based assessments.

An individual intellectual assessment must be administered by a qualified examiner. The student's language and motor skills must be considered in the selection of evaluation instruments. If verbal or performance scores are significantly discrepant, further evaluation is mandated to determine the reason for the discrepancy and to ensure that the student is actually experiencing an intellectual disability.

Adaptive behavior is defined as the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of pupils of comparable age and cultural group. Deficits in adaptive behavior as measured on standardized and curricular based assessment information gathered from parents and team members must be identified and addressed in the student's IEP and instructional programming.

Intellectual, academic and adaptive assessments should demonstrate consistently low profiles across measures which have been appropriately selected and administered.

Evaluation must demonstrate that deficits in functioning are not a function of environmental factors, experiential disabilities, or acculturation.

The student is not identified as manifesting one of the other disabling conditions as defined in these Rules.

Although the previously mentioned evaluation considerations must be followed for classification, standardized assessment often is of little utility in IEP development and programming. As such, criterion or curricular based assessment and ongoing student progress monitoring is essential for IEP development and programming. When a student is classified as having an intellectual disability, the IEP must address academic and functional skills which, when mastered, increase the student's likelihood of success in a less restrictive setting, as well as addressing traditionally identified deficits. In addition, "extent of participation in regular education" must be considered beyond the common practice of listing music, art, and recess.

9. **Multi-disabilities** means concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational problems that the student cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

NOTE: The above definition describes students demonstrating the term multiple disabilities, as defined in 34 CFR 300.7 of IDEA-B Regulations.

Eligibility is determined by an interdisciplinary evaluation team which assesses cognitive ability, functional academic skills, language and communication, social/emotional functioning, self help and independent living skills, vocational skills, and motor/sensory development of the individual.

The evaluation team must consider the use of assisted and augmented communication and motor systems during the evaluation.

The student's prior medical history should be obtained from the private physician to provide information regarding specific syndromes, special health problems (e.g. tracheotomy), medication, and long term medical prognosis for the individual.

Students with multi-disabilities generally are functioning significantly below average intellectually on an appropriately selected, administered and normed assessment. The purpose of assessing the intellectual skills of students with multi-disabilities is to provide current information on the individual's cognitive functioning. The assessment process is determined by the team and must include a combination of tests, interviews with those familiar with the individual, and observations conducted in settings familiar to the student. Traditional approaches to assessing cognitive ability are of limited value for this population. Limitations include 1) the existence of few measures useful with persons functioning below the two year level, 2) the sensory deficits of students with multi-disabilities which interfere with responding; thus curricula-based assessment is acceptable as an alternative for identifying intellectual delays.

Adaptive behavior is defined as the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected for

their age and cultural group (Grossman, 1973, 1977). Expectations of adaptive behavior will vary at different ages. During infancy and early childhood, the assessment of adaptive behavior will focus on sensory motor skill development; communication skills, including both speech and language; self-help skills, and socialization or development of the ability to interact with others. During childhood and early adolescence assessment will focus on the application of basic academic skills in daily life activities, application of appropriate reasoning and judgement in mastery of the environment and social skills such as participation in group activities and interpersonal relationships. During late adolescence and adult life, vocational and social responsibilities and performances are assessed.

The purpose of assessing adaptive behavior among students with multi-disabilities is to identify those behaviors that impede integration into and/or fuller participation in the community. Adaptive behaviors should be the primary focus of educational programming. The use of alternative strategies to increase independence should also be examined in lieu of traditional academic instruction. Information derived from a variety of adaptive behavior indices, assessing behavior in school and out of school, should be used in decision making.

The student with multi-disabilities frequently has difficulty with listening, reasoning, and/or speaking. The speech-language problem may involve a deficit in:

a. Pragmatics (social appropriateness of communication)

b. Semantics (meaning and interpretation of words)

c. Language (sentence structure)

d. Pre-linguistics

   (1) desire/intent to communicate

   (2) attending/behavioral problems

   (3) environmental interaction/cause-effect

   (4) gestural communication

e. Phonology (sounds and articulation)

f. Morphology (correct word endings)

g. Syntax (correct word order)

h. Voice (volume, hoarseness)

i. Stuttering

The speech-language problem may call undesirable attention to, or prevent, limit, or interfere with the student's ability to interact and respond appropriately in social, academic and/or vocational situations. The communication skills of the student with multi-disabilities are to be evaluated, as necessary, in the nine previously stated areas using formal standardized testing, informal probes, observations made in a variety of settings, and parent-teacher interviews. Augmented and alternative communication systems which will increase the students communication skills should be identified.

The student with multi-disabilities with sensory-motor problems has difficulty with interpreting the environment through their sensory systems or acting on the environment through motor function. In addition to the following areas to be assessed, the multidisciplinary team should identify any assistive devices which will increase student skill acquisition and independence. The problems may involve:

a. Loss of sight or hearing.

b. Abnormal tactile or joint sensation.

c. Abnormal muscle tone and movement.

d. Lack of integration of primitive reflexes.

e. Lack of balance or coordination.

f. Organization of sequential motor movement.

g. A combination of any of the above.

These problems can interfere with learning the simplest tasks and will inhibit independent living, vocational training, and utilization of community recreation facilities. The motor skills of each student with multi-disabilities should be evaluated individually using one of the following methods:

a. Formal standardized testing.

b. Informal classroom evaluation.

c. Teacher and parent observations.

d. Review of medical information.

Assessment must demonstrate that deficits in functioning are not primarily a function of environmental factors, experiential disabilities, or acculturation.

The student is not identified as manifesting one of the other disabling conditions as defined in these Rules.

Although the previously mentioned assessment guidelines must be followed for classification, standardized assessment often is of little utility in IEP development and programming. As such, criterion or curricula based assessment and ongoing student progress monitoring is essential for quality IEP development and programming. When a student is classified with multi-disabilities, the IEP must address functional skills which, when mastered, increase the students likelihood of success in a less restrictive setting; i.e., movement from a self-contained setting to resource, resource to regular education and independent living; as well as traditionally identified deficits. In addition, the use of augmented communication systems and assistive systems which may increase functional independence must be addressed in the IEP.

The student with multi-disabilities frequently experiences difficulty in production, work-related, and social skills that are critical to participating independently or with support in present and future vocational settings. Vocational assessment is important for identification of vocational skills for training, identification of appropriate vocational environments, matching skills to environments, and planning for future placement.

In addition, "extent of participation in regular education" must go beyond the common practice of listing music, art, and recess. In contrast, least restrictive options; i.e., peer intervention/ interaction systems, should be discussed for each goal individually during the IEP meeting and individually listed on the IEP.

10. **Orthopedic Impairments**. A severe orthopedic impairment which adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

NOTE: The above definition describes students previously classified as physically, motorically, or orthopedically impaired under previous USOE Rules, and includes students who are orthopedically impaired as defined in the IDEA-B Regulations, 34 CFR 300.7).

The student's medical history should be obtained from the private physician to provide relevant information regarding specific syndromes, birth problems, medication, and any information deemed necessary for planning the student's educational performance.

Eligibility is determined by a multi-disciplinary team. Multiple standardized measures should be used to assess suspected educational, adaptive, and behavioral deficits.

The student is not identified as manifesting a primary disabling condition other than an orthopedic impairment.

11. **Other Health Impairments**. A student who exhibits limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes that adversely affects a student's educational performance.

NOTE: The above definition describes students demonstrating other health impairments as described in IDEA-B, (34 CFR 300.7), and the Utah Guidelines and Procedures for Serving Students with Special Health Care Needs.

The student's medical history must be obtained from the private physician to provide relevant information regarding specific syndromes, health problems, medication, and any information deemed necessary for planning the student's educational program.

Eligibility is determined by a multidisciplinary team. Multiple standardized measures should be used to assess suspected educational, adaptive, and behavioral deficits.

The student is not identified as manifesting a primary disabling condition other than OHI (Other Health Impairment).

12. **Specific Learning Disabilities**. A disorder in one of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, write, spell or to do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include students who have learning problems which are primarily the result of visual, hearing or motor disabilities, mental retardation, emotional disturbance or environmental, cultural or economic disadvantage. (IDEA-B Regulations, 34 CFR 300.7.)

a. Pre-referral interventions. Before a referral for evaluation can be made, there must be a record of failed interventions in the regular classroom, as required in Rule III.B. "Pre-Referral Procedures" of these Rules.

b. Multidisciplinary Assessment Team. In evaluating a student suspected of having a specific learning disability, in addition to the requirements of the Utah State Board of Education Rules (see III.E "Protection in Evaluation Procedures"), each public agency shall include on the multidisciplinary assessment team: (1) The student's regular teacher; or if the student does not have a regular teacher, a regular classroom teacher qualified to teach a pupil of his/her age; and (2) At least one person qualified to conduct individual diagnostic examinations.

This team makes the decision whether or not a student is eligible for services consistent with the learning disabilities regulations.

NOTE: Learning Disabilities and Communication Disorders:
Research supports the concept that disorders of language are present in many children who manifest learning disabilities. The determination of a primary disabling condition is difficult when dealing with the LD/CD student due to the complexity of the higher language skills involved in academic learning. Many students could qualify for classification in both areas. It is the responsibility of the multidisciplinary team to determine the appropriate primary classification. It is important that the Communication Disorders Specialist (speech/language/pathologist) be a member of the multidisciplinary team which evaluates students suspected of having a learning disability in the areas of oral expression and/or listening comprehension. If the student is to be classified CD, a CDS must be involved in the classification.

c. Evaluation Procedures.

Intellectual ability must be determined by one of the reliable, valid, individually administered, standardized instruments listed in the LD Guidelines or the LD Estimator Disk. If a measure of intellectual ability, other than those listed in the guidelines, is used, then the supporting documentation should: (1) Identify the validation research alternative supporting the use of the instrument with the student under review; and (2) Provide a rationale showing why the instrument's use is more appropriate than one of the listed instruments.

Scores from standardized measures in one or more areas of concern must be compared to this score of intellectual ability. This comparison must use the validated statistical method provided in the Utah State Office of Education LD Guidelines to identify whether a severe discrepancy exists between measured achievement areas. If another method is used to identify a severe discrepancy, the supporting documentation should identify: (1) Broad and consistent evidence in the professional research literature to support the alternative method; and (2) 7 A substantive rationale showing how the alternative method is clearly superior to the method provided in the guidelines.

A statement of status (i.e., results of the comparisons) must be written for each of the achievement areas assessed.

Each identified deficit must be confirmed by at least two valid measures of achievement (e.g., a standardized instrument and a classroom observation).

One measure must be an individually administered, standardized instrument which specifically assesses the achievement area. If an instrument measure of achievement other than those listed in the guidelines is used, then the documentation should: (1) Identify the validation research literature supporting the use of the instrument with the student under review; and (2) Provide a rationale showing why the instrument's use is more appropriate than one of the listed instruments.

The other required measure of achievement is an observation of the student's academic performance in the regular classroom setting by a team member other than the student's regular classroom teacher. In the case of a student out of school, a team member shall observe the student in an environment appropriate for a student of that age.

The multidisciplinary assessment team must determine that the severe discrepancy between ability and achievement is not primarily the result of a visual, hearing, or motor disability; intellectual disability; or behavior disorder; environmental, cultural or economic disadvantage. Making this determination related to visual, hearing or motor disability, intellectual disability or a behavior disorder must be accomplished using criteria contained in the definitions of these disabling conditions contained herein. Making this determination related to environmental, cultural or economic disadvantage requires that the team collect information related to educational history, family background, and family economic status. Further, the team must determine the effect of these issues on the achievement of the student in question.

NOTE: The LD Guidelines contain specific procedures the team might use to determine the effect of environmental, cultural, or economic disadvantage.

The team shall prepare a written report of the results of the evaluation. The report must include the following:

(1) Whether the student meets state eligibility requirements for services as a student with a specific learning disability;

(2) The data used for making the determination;

(3) The description of student behavior and the instructional environment noted during the observation of the student;

(4) The relationship of the student behavior and the instructional environment to the student's academic functioning;

(5) The educationally relevant medical findings, if any;

(6) Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services;

(7) The determination of the team concerning the effects of environmental, cultural or economic disadvantages;

(8) Determination that the discrepant performance is not primarily due to:

(a) visual disability

(b) hearing disability

(c) motor disability

(d) intellectual disability

(e) behavior disorder

(f) environmental, cultural, or economic disadvantage, including atypical educational history (e.g., irregular school attendance, attendance at multiple schools, inappropriate or insufficient teaching).

(9) Date of the eligibility meeting;

(10) Signature and role of team members;

(11) By signing the written report each team member certifies that the report reflects his/her conclusion. If it does not, the team member must submit a separate statement presenting his/her conclusions.

d. Classification. The student with learning disabilities must score above the Intellectual Disabilities range on individually administered tests of intellectual ability. These tests must not discriminate against students on the basis of disabling conditions, culture, race, and/or sex.

The student with learning disabilities does not achieve commensurate with his/her age and ability levels when provided with learning experiences appropriate for the student's age and ability level. Achievement must be measured in one or more of the seven learning areas identified in the Federal Regulations. (P.L. 94-142, Section 300.541 (a)(2)) These include:

(1) Oral expression.

(2) Listening comprehension.

(3) Written expression.

(4) Basic reading skills.

(5) Reading comprehension.

(6) Mathematics calculation.

(7) Mathematical reasoning.

A student may not be identified as having a learning disability if the severe discrepancy between measured achievement and intellectual ability is primarily the result of a visual, hearing, or motor disability; intellectual disability; a behavior disorder; or environmental, cultural or economic disadvantage.

13. **Traumatic Brain Injuries.** An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

a. It is important to remember that only a physician can diagnose brain injury; therefore, any evaluation must begin with a medical diagnosis. Although other evaluations could be considered, the following are recommended:

- Vision
- Health Care Records/Medication
- Augmentative communication needs
- Hearing
- Rehabilitative team evaluations
- Self help/Adaptive behavior
- Academic
- Speech/Language
- Social/Emotional
- Intellectual/Cognitive
- Career - Vocational (Secondary Students)
- Gross/Fine Motor skills

Eligibility is determined by a multi-disciplinary team, as described in Rule III.G.

b. Because of the dynamic nature of traumatic brain injury, it is recommended that the testing format include informal assessment and diagnostic teaching to compliment final testing. It is important to consider the student's pre-injury learning style and knowledge base. Previous history becomes a baseline to compare pre-injury skills with post-injury performance.

NOTE: The above information is included in the Utah Guidelines and Procedures for Serving Students with Traumatic Brain Injuries.

The student is not identified as manifesting a primary disabling condition other than TBI (Traumatic Brain Injury).

14. **Visual Impairments** including blindness, means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

An ophthalmologist's report stating the diagnosis and description of the student's visual problem and indicating cause, acuity, and field of vision are necessary for diagnosis and classification.

Program interventions may necessitate a self-contained class for the blind, a special resource room for students who are blind or partially sighted, the services of an itinerant or resource teacher to help the student to succeed in assignments of the regular classroom, or the residential school for the blind.

All of the following information must be taken into consideration when determining the program placement of the student with visual impairment and in determining the extent of special programs necessitated.

a. Ophthalmologist's diagnostic findings and recommendations.

b. Educational achievement of the student.

c. Social/emotional development.

d. Other disabling conditions present in the student.

e. An assessment by a qualified teacher of the visually impaired as to the functioning level of the student in adjusting to visual problems and gaining educational and social successes.

III. I. Placement Status During Evaluation. A student referred from within the school district and being evaluated for the first time shall remain in his or her current placement during determination of eligibility for special education and related services.

III. J. Temporary Diagnostic Placement. A student with a disability previously receiving special education services, transferring from another school district or state without special education records, may be placed with the written consent and prior notice of the parent in an appropriate special education program during the period of evaluation. In addition to written parental consent, the following steps must be taken:

1. An interim IEP must be developed which describes the special education services to be provided and evaluations to be completed; and,

2. An IEP meeting is conducted, at the end of the evaluation period, in order to finalize the IEP.

The temporary diagnostic placement of an eligible student with a disability in a program as a part of the evaluation process shall not exceed thirty (30) days.

III. K. Reevaluation. The public agency shall conduct a formal reevaluation for classification for each identified student with a disability at least every three years from the most recent classification date or more frequently if conditions warrant or, if the student's parent or teacher requests an evaluation. Prior notice shall be given to the parents before any reevaluations for classification are conducted (see Rule III.D, Prior Notice and Parental Consent). The student shall be reevaluated in all areas related to the suspected disability, in accordance with the procedures specified under Section III.E. of these Rules. The same tests might not be used for reevaluation. If the tests to be administered were not listed in original prior notice, the agency must obtain a new permission to evaluate. However, lack of parental consent for additional testing may not be used as a reason to deny services to continue for a student. (See RULE III.D.2.b.) Following completion of the evaluation process, an eligibility/ classification determination meeting will be held and eligibility/classification determined as in Rule III.G above. Parents will be notified of the results of the reevaluation/reclassification. If the current IEP is no longer valid in light of reclassification, an IEP meeting will be conducted in accordance with district procedures.

IV. SERVICE DELIVERY

IV.A. Individualized Education Program (IEP). The IEP is a written statement (educational plan) for a student with disabilities that is developed and implemented in accordance with these Rules. It describes a student's needs for special education and related services as determined by the multidisciplinary evaluation and IEP teams, and how those needs will be met. The IEP cannot replace the Student Educational Plan, (SEP) required for all students, or other individual plans required by other agencies or departments. The IEP is a planning document agreed upon by the IEP team, and determines the student's type of educational placement and specific service(s) to be delivered. It serves as a management tool that enables all members of the IEP team to fulfill their commitments to meeting the student's educational needs, and to provide for measurement of progress towards goals.

1. Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP for a student with disabilities. (See Section IV.K., Annual Reevaluation of IEP.)

2. An IEP must be in effect at the beginning of each school year for every student with disabilities who is receiving special education from a public agency. It must be in effect before special education and related services are provided to a student.

3. It must be written within thirty (30) calendar days of the determination of the student's eligibility for special education services, and special education services cannot begin until the IEP is written and finalized.

4. An IEP must be implemented as soon as possible following the IEP meetings.

5. The IEP for a student with disabilities must be written and signed prior to placement and initiation of service. However, the lack of a signature on the IEP may not be used to deny services to the student. (See Rule III.D.2.b.) It is strongly recommended that LEAs develop personalized implementation plans (or teacher lesson plans) for each student, reflecting the content of the IEP.

6. A student with disabilities previously receiving special education services, transferring from another school district or state, with special education records, including a current IEP, may be placed with the written consent of the parent in an appropriate special education program in keeping with the receiving district's procedures. Under these conditions, it would not be necessary for the receiving district to conduct an IEP meeting, if the parents indicate that they are satisfied with the current IEP.

7. The IEP will be written in a meeting of the IEP team (see Rule IV.B), some or all of whom may have participated in the Evaluation and Classification process. The team will inform the parents of the student's diagnosed disability as determined in the evaluation/classification process, utilizing the full name of the category of disability (e.g., "Learning Disability" rather than "L.D.").

NOTE: IDEA-B requires that each public agency must provide special education and related services to a student with disabilities in accordance with an individualized education program. However, the individualized education program is not a binding contract, in that Part B of the Act does not require that any agency, teacher, or other person will be held accountable if the student does not achieve the growth projected in the annual goals and objectives. The IEP is a commitment on the part of the local education agency to provide the services listed.

IV.B. Participants in IEP Meeting. Each school district or public agency shall insure that each meeting includes the following participants:

1. A representative of the LEA, other than the student's teacher(s) who is qualified to provide, or supervise the provision of special education. The LEA representative (administrator or designee) must be authorized to commit public agency resources to the provision of special education services. Signature of the LEA representative binds the school district to the provision of services, as described in the IEP.

2. The student's teacher(s).

   In general, the teacher at the IEP meeting should be the student's special education teacher. At the option of the agency or the parent, the student's regular education teacher(s) may also attend. It is responsibility of the special education teacher to collaborate with those regular education teachers whose educational services to the student are related to the goals and objectives outlined on the IEP.

3. One or both of the student's parents, as defined in Rule I.E.22. (also see Rule IV.D, Surrogate Parents).

4. The student, where appropriate.

5. Other individuals, at the discretion of the parent or agency.

6. For a student with disabilities' initial IEP, the public agency shall insure:

   a. that a member of the evaluation team participates in the meeting; or

   b. that the LEA representative, the student's teacher, or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation. Either the teacher or the agency representative must be knowledgeable in the area of the student's suspected disability.

7. Representatives of other public or private agencies currently or potentially involved with providing services to the student.

8. If a purpose of the meeting is the consideration of transition services for a student (age 16 and older, and at a younger age, if appropriate), the public agency shall invite:

a. the student, and

b, a representative of any other agency that is likely to be responsible for providing or paying for transition services. (See Rule IV.G.)

c. If the student does not attend, the public agency shall take other steps to ensure that the student's preferences and interests are considered, and

d. if an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain the participation of the other agency in the planning of any transition services.

IV.C. Parent Participation. Each agency shall take steps to insure that one or both of the parents of the student with disabilities are present at each IEP meeting, or are afforded the opportunity to participate, including: (a) notifying parents of the meeting early enough to insure that they will have an opportunity to attend; (b) scheduling the meeting at a mutually-agreed upon time and place; and, (c) including in the notice to parents the purpose, time, and location of the IEP meeting, who will be in attendance, and that they may bring other people to the meeting.

1. If neither parent can attend, the agency shall use other methods to insure parent participation, including individual or conference telephone calls.

2. If the parents are unknown, their whereabouts are unknown, or the student is a ward of the state, the district or agency must assign a surrogate parent to serve as an advocate on behalf of the student (see Rule IV.D. Surrogate Parents).

3. If a purpose of the meeting is the consideration of transition services for a student, the notice must also: (a) indicate this purpose, (b) indicate that the agency will invite the student, and (c) identify any other agency that will be invited to send a representative.

4. An educational agency may presume that either parent of the student has authority to inspect and review educational records of the student. This presumption may be relied upon unless the agency has received written evidence that there is a legally binding instrument, law, or court order governing the matter which provides to the contrary.

5. An IEP meeting may be conducted without a parent in attendance if the agency is unable to convince the parents that they should attend. In this case the agency must have written documentation of at least three contacts to arrange a mutually agreed upon time and place, such as:

   a. records and dates of completed telephone calls to parents, and the results of those calls;

   b. copies of dated correspondence sent to the parents, and any responses received; and,

c. records and dates of visits made to the parent's home or place of employment, and the results of those visits.

6. For students who have reached the age of majority, or are emancipated and have not been declared incompetent by the courts, parental participation, including the prior notice requirements in this section, are still applicable.

7. The agency shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

8. The public agency shall give the parent, on request, a copy of the individualized education program, without charge.

IV.D. Surrogate Parents. In order to provide every eligible student a public education with the protection of procedural due process, even under circumstances where a student's parents or guardians are not known, their whereabouts are unknown, or the student is a ward of the State, such student shall be assigned a parent surrogate. The LEA shall maintain a registry of eligible persons who have completed a surrogate training program.

The surrogate parent may represent the student in all matters relating to the identification, evaluation and educational placement of the student, including the provision of a free appropriate public education.

Qualifications of persons selected as surrogate parents and procedures for assigning surrogate parents are specified below.

1. Qualifications of Surrogates: Persons selected as surrogate parents should (1) have no vested interest that would conflict with their primary allegiance to the student they would represent; and (2) to the extent possible, be of the same racial, cultural, linguistic and geographic background of the students they represent.

   a. A surrogate parent will be committed to acquaint him or herself, personally and thoroughly, with the student and the student's educational needs; and be familiar with the state and local educational system, in order to adequately represent the interests of the student.

   b. The surrogate parent will not be an employee of a public agency which is involved with the education of care of the student.

2. Procedures for Assigning Surrogate Parents. Assignments of a surrogate parent to a particular student shall be made by the LEA or SOP within 15 school days of the student's eligibility determination.

NOTE: Any person, whose work involves education or treatment of children, who knows of a student possibly needing special education services and knows that the parents or guardians are unknown, or their whereabouts are unknown, or that the student is a ward of the State, should file a request with the student's LEA for assignment of a surrogate parent to the student.

In an effort to determine whether or not the parents or guardians are in fact unknown, their whereabouts are unknown, or the student is a ward of the State, the LEA should send a notice of the need for a surrogate to the adult in charge of the student's place of residence and to the parents or guardians at their last known address.

IV.E. Content of the IEP. The IEP for each student must include:

1. Demographic information
2. The following dates:
   a. The date the IEP document is completed
   b. Entry date to program (date for initiation of services)
   c. Anticipated duration of the services.
3. A statement of the student's present levels of educational performance, based on formal and/or informal measures.
4. A statement of annual goals.
5. Measurable short term objectives to be used in implementing each annual goal.
6. A statement of the specific special education and related services to be provided to the student (see Rule IV.H below for Determination of Related Services), and the extent to which the student will be able to participate in regular education programs.
7. Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.
8. A statement of the needed transition services for students beginning no later than age 16 (and at a younger age, if determined appropriate), including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting.
9. If the IEP team determines that services are not needed in one or more of the areas specified in Rule IV.G (instruction, community experiences, and the development of employment and other post-school adult living objectives and, if appropriate, acquisition of daily living skills and functional vocational evaluation), the IEP must include a statement to that effect and the basis upon which the determination was made.
10. The signatures and titles of all participants at the meeting, and the date each one signed.

The public agency shall give the parent, on request, a copy of the IEP, without charge.

NOTE: The State Office of Education, the State Department of Social Services, the Department of Health, and the affected school district shall cooperatively develop a single, coordinated education and treatment program for each student with a disability who requires special services from both the public schools and the department(s).

IV.F. IDEA-B, APPENDIX C

In interpreting the IEP Requirements, Appendix C of the Part B Regulations provides both legally binding interpretations and non-binding suggestions. The legally binding requirements in the interpretation are identified by such mandatory language as "must", "the IEP would have to be revised," or "labels may not be used." The non-binding suggestions and guidance are stated in such non-mandatory language as "the agency should" or "it is expected that."

Listed below are Federal interpretations specific to the content of the IEP, including specific references to physical education (PE).

1. The statement of present levels of educational performance will be different for each student with disabilities. Thus, determinations about the content of the statement for an individual student are matters that are left to the discretion of participants in the IEP meetings. However, the statement should accurately describe the effect of the student's disability on the student's performance in any area of education that is affected, including (1) academic areas (reading, math, communication, etc.) and (2) non-academic areas (daily life activities, mobility, etc.). Labels such as "mentally retarded" or "deaf" may not be used as a substitute for the description of present levels of educational performance.

2. The annual goals in the IEP are statements which describe what a student with a disability can reasonably be expected to accomplish within a twelve month period in the student's special education program. There should be a direct relationship between the annual goals and the present levels of educational performance.

3. Short term instructional objectives (also called "IEP objective") are measurable, intermediate steps between a student with disabilities' present levels of educational performance and the annual goals that are established for the student. The objectives are developed based on a logical breakdown of the major components of the annual goals, and can serve as milestones for measuring progress toward meeting the goals. (Where there is only one short term objective per annual goal, the short term objective does not comprise a sequential breakdown of the annual goal.)

4. The amount of services to be provided must be stated in the IEP, so that the level of the agency's commitment of resources will be clear to parents and other IEP team members. The amount of time to be committed to each of the various services to be provided must be (1) appropriate to that specific service, and (2) stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.

5. A student with disabilities' IEP must indicate the extent to which the student will be educated in the regular educational program. One way of meeting this requirement is to indicate the percent or amount of time the student will be spending in the regular

education program with non-disabled students. Another way is to list the specific regular education classes the student will be attending.

6. The evaluation procedures and schedules for determining achievement of the short term objectives need not be included as a separate item in the IEP, but they must be presented in a recognizable form and be clearly linked to the short term objectives.

7. Physical education services, specially designed if necessary, must be made available to every student with disabilities receiving a free appropriate public education. The following paragraphs (1) set out some of the different PE program arrangements for students with disabilities and (2) indicate whether, and to what extent, PE must be described or referred to in an IEP.

   a. Regular PE with non-disabled students. If a student with disabilities can participate fully in the regular PE program without any special modifications to compensate for the student's disability, it would not be necessary to describe or refer to PE in the IEP. On the other hand, if some modifications to the regular PE program are necessary for the student to be able to participate in that program, those modifications must be described in the IEP.

   b. Specially designed PE. If a student with disabilities needs a specially designed PE program, that program must be addressed in all applicable areas of the IEP (e.g., present levels of educational performance, goals and objectives, and services to be provided). However, these statements would not have to be presented in any more detail than the other special education services included in the student's IEP.

   c. PE in separate facilities. If a student with disabilities is educated in a separate facility, the PE program for that student must be described or referred to in the IEP. However, the kind and amount of information to be included in the IEP would depend on the physical-motor needs of the student and the type of PE program that is to be provided.

      Thus, if a student is in a separate facility that has a standard PE program (e.g., a residential school for the deaf), and if it is determined--on the basis of the student's most recent evaluation--that the student is able to participate in that program without any modifications, then the IEP need only note such participation. On the other hand, if special modifications to the PE program are needed for the student to participate, those modifications must be described in the IEP. Moreover, if the student needs an individually designed PE program, that program must be addressed under all applicable parts of the IEP. (See paragraph b above.)

8. Each public agency shall ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in these Rules are made available to any student with a disability who requires an assistive technology device or service in order to receive a free appropriate public education.

Assistive technology devices and assistive technology services for students with disabilities may be provided as special education, related services, or, in the case of students with disabilities to be educated in regular classes, as supplementary aids and services.

IV.G. Transition Planning. Transition services for students with disabilities shall be addressed in the IEP in accordance with Rules IV.E.8. and 9. For students whose needs require transition planning, such planning must be based upon the results of individual student evaluations completed by the multidisciplinary evaluation team. For a limited number of students with disabilities whose needs do not require the inclusion of transition planning in the IEP, the school district's student advisement program shall be the proper vehicle for addressing transition planning goals. Documentation of the district's use of its student advisement program shall be noted in the IEP.

The goals and objectives on the IEP shall be written to include needed activities in the areas listed under the definition of transition services in these Rules (instruction, community experiences, and the development of employment and other post-school adult living objectives; and, if appropriate, acquisition of daily living skills and functional vocational evaluation).

1. Transition planning shall include:

   a. Providing parents of students with disabilities with information regarding post-school options.

   b. Conducting inservice training for special education staff on adult service providers and eligibility requirements for services.

   c. Assisting parents of students with disabilities in contacting appropriate adult service providers.

   d. Sharing information regarding service needs with appropriate agencies for planning and development of adult service options, to include:

      (1) Documenting adult service needs in the IEP, and

      (2) Developing and/or utilizing interagency data management systems for information sharing.

   e. Including appropriate personnel from agencies that provide adult services based upon students' needs.

   f. When appropriate, assist parent of and/or students with disabilities with referral to Vocational Rehabilitation (see Appendix B, Vocational Rehabilitation Services, Transition Section).

2. Transition services for students with disabilities may be special education, if they are provided as specially designed instruction, or related services, if they are required to assist a student with a disability to benefit from special education. The listed activities in the definition of transition services are not exhaustive.

3. If a participating agency, other than the public agency responsible for the student's education, fails to provide agreed-upon transition services contained in the individualized education program of a student with a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to be implemented to meet the transition objectives, and if necessary, revising the student's IEP.

   As used in this section, "participating agency" means a State or local agency, other than the public agency responsible for the student's education, that is financially and legally responsible for providing transition services to the student.

4. Nothing in these Rules relieves any participating agency of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

IV.H. Determination of Related Services. Participants in the IEP team meetings held to develop the written individualized education program for a student with disabilities, shall determine if any developmental, corrective or other supportive services (including transportation) are required to assist a student with disabilities to benefit from special education; such services must be written into the IEP as related service(s).

In deciding whether a particular developmental, corrective or other supportive service is a related service, the members of the IEP team shall:

1. Review the results of the individual evaluations used to determine the student's classification/eligibility for special education; and,

2. Based upon the specific special education services to be provided, determine whether or not additional related services are required in order to implement the program being recommended.

NOTE: The definition of "Special Education" is a particularly important one under IDEA-B in determining the need for related services. A student must meet one of the state's eligibility criteria in order to be classified as having a disability and therefore in need of special education. If a student does not need special education, there can be no related services, and the student is not covered under IDEA-B.

If a student does not meet one of the State's eligibility criteria in order to be classified as having a disability, yet still requires a specialized service (e.g., a reader for a visually impaired student needing no special education services) in order to participate in the regular education program, this individual would be covered under Section 504 of the Rehabilitation Act of 1973, and would be the responsibility of regular education (see Appendix B, Vocational Rehabilitation Services, also see Utah's Section 504 Guidelines for Educators).

IV.I. Placement (IEP Implementation). Each school district or agency shall develop policies and procedures for the implementation of the IEP.

1. Each district or agency shall ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and placement options.

2. The student must be served in the Least Restrictive Environment appropriate to his or her identified needs, as based on his/her IEP. The placement form must indicate the reason(s) the team selected this particular placement option, including amount of service and other alternatives that have been attempted or considered. This service as the justification for placement in the Least Restrictive Environment (see Rule IV.J).

3. Placement options, as determined by the IEP, may include:

   a. consultant services provided in regular classrooms with appropriate supplemental instruction,

   b. itinerant resource services,

   c. resource rooms,

   d. self-contained placement in a resource room, or self-contained classes in regular schools,

   e. special day schools,

   f. residential learning centers,

   g. home and/or hospital based instruction,

   h. other settings.

4. Written parental permission for placement must be obtained before a student is placed in a special education service for the first time. Prior notice must also be given at the same time parental permission for initial placement is requested (see Rule III.D, Prior Notice and Parental Consent).

5. When the IEP team is making decisions on interventions for decreasing student behavior, refer to the policy on Least Restrictive Behavioral Interventions (LRBI). The purpose of the LRBI policy is to provide standards for making decisions on the use of interventions for decelerating behavior. (Appendix H.)

6. Before any revision is made to any component of a student's IEP (Rule IV.E) a public agency shall:

   a. Provide prior notice (Rule III.D), and,

   b. Conduct an IEP meeting.

7. **Extended School Year (ESY)** must be considered as a program option to maintain the critical skills of those students who qualify according to the ESY section of these Rules, Rule IV.S.).

8. **Vocational Education** provided in the regular vocational education program without any modifications required for a student with disabilities would not need to be included in the student's IEP.

   If modifications to the regular vocational education program are necessary in order for the student to participate in that program, those modifications must be included in the IEP. Moreover, if the student needs a specially designed vocational education program, then vocational education must be described in all applicable areas of the student's IEP (e.g., present levels of educational performance, goals and objectives, and specific services to be provided). However, these statements would not have to be presented in any more detail than the other special education services included in the IEP.

9. **Graduation** issues must be addressed by IEP teams on an individual basis. The IEP is the vehicle for making modifications to graduation requirements to meet the unique educational needs for students with disabilities. As such, the IEP must document the nature and extent of modifications and/or exemptions made to accommodate a student with disabilities. (See Appendix C, High School Graduation Requirements.)

   For students served through special education and related services, graduation is a change in placement. Therefore, because eligibility for special education and related services ends when a student graduates, graduation must be considered a change in placement and is subject to the procedural safeguards provisions, including written prior notice to parents.

   For students who have reached the age of majority, or are emancipated and have not been declared incompetent by the courts, Prior Notice and Parental Rights requirements are still applicable (see III.D.1., Prior Notice). The decision to terminate services, through graduation, for a student with disabilities under the age of twenty-two, is an IEP Team decision, not the student's.

   Students with disabilities and their parents must be able to make an informed decision regarding graduation options. In order to make this decision, parents must be notified with enough lead time to allow for due process procedures to be implemented. This notification must include the following information:

   a. Issuance of a standard diploma terminates the student's eligibility for public educational services. A diploma is the only document that will discharge the district's obligation to provide FAPE until age 22.

   b. The parent may not require that the school district withhold issuance of a diploma until age 22 if the student with disabilities has met the graduation requirements.

c. The IEP team "...may exempt the student or modify the mastery demonstration to accommodate the student's disability." (USOE Core Curriculum Standards, Appendix D). NOTE: Students who have been served in Special Education during one of their high school years but who are not receiving service at the time of graduation are eligible for modifications made during the time they received service. When a student's Special Education services are terminated, Special Education teams must document the modifications that have been made with appropriate school personnel to ensure that the student is on track for graduation.

d. Graduation options, for students with disabilities whose age mates will graduate during a given academic year, include the following:

(1) If all USOE and LEA graduation requirements are completed, the student will graduate and receive a diploma.

(2) If graduation requirements as amended on the IEP are completed, the student will graduate and receive a diploma.

(3) If graduation requirements as amended on the IEP are not completed and the student's Transition Plan documents the need for transition services offered by the LEA outside of the local high school, the student may be allowed to participate in the graduation ceremonies; however, a diploma would not be issued until the student has successfully completed his/her program.

(4) If graduation requirements as amended on the IEP are not completed and the IEP Team determines that the student can benefit from continued educational programming in the local school, the student may be allowed to participate in graduation ceremonies and receive a diploma at such time as amended graduation requirements are met.

(5) If graduation requirements as amended on the IEP are not completed before the student reaches age 22, the student may be issued a certificate (e.g., Certificate of Completion or Progress) indicating that a record of competencies can be made available to them or to others who may legitimately inquire.

(6) If graduation requirements as amended in the IEP are not completed due to factors that are not a direct manifestation of the student's disability, the student is not eligible to participate in graduation ceremonies or receive a diploma.

IV.J. Least Restrictive Environment. Each public agency shall establish and implement procedures which meet the requirements under 34 CFR 300.550-553, and the Utah State Plan for the Individuals with Disabilities Education Act. The following requirements must be met:

1. General. Each public agency shall ensure that:

   a. To the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled; and,

   b. Special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

   c. Each student with disabilities will participate with non-disabled students to the extent possible in extracurricular and nonacademic services and activities.

2. Continuum of Alternative Placements:

   a. In developing the delivery system for special educational services under the least restrictive environment philosophy, eight alternative program settings shall be considered. These include:

      (1) consultant services provided in regular classrooms with appropriate supplemental instruction, and

      (2) itinerant resource services,

      (3) resource rooms

      (4) self-contained classes in regular schools, or self-contained placement in a resource room,

      (5) special day schools,

      (6) residential learning centers,

      (7) home and/or hospital based instruction,

      (8) other settings. (See Rule IV.I).

   b. Though it may not be possible for a local educational agency to provide all program types, the local educational agency shall be able to verify that its instructional settings, consultative services, or cooperation with other agencies provide for the appropriate education of each student in the least restrictive environment.

3. Placements. Each public agency shall ensure that:

a. The educational placement of each student with disabilities shall be individually determined at least annually and be based on the student's individualized education program;

b. Provisions are made for appropriate classroom or alternative settings necessary to implement a student's individualized education program;

c. Except where a student with disabilities' IEP requires some other arrangement, the student shall be educated in the school which that student would normally attend if not disabled. Other placement shall be as close as possible to the student's home;

d. Placement in the least restrictive environment provision will not produce a harmful effect on the student or reduce the quality of services which that student needs.

e. The decision as to the type of placement that is appropriate must not be based on any of the following factors used alone or in combination:

- Category of disabling condition
- Configuration of the service delivery system
- Availability of educational or related services
- Availability of space
- Curriculum content or methods of curriculum delivery

4. Non-Academic Settings.

a. Non-academic and extracurricular services and activities (including counseling, recreational activities, intramural and interscholastic athletics, transportation, health services, and clubs sponsored by the school system) shall be offered by school districts in a way that allows equal opportunity to each student with disabilities to participate in services and activities. No otherwise qualified person with disabilities shall be denied opportunity to compete for teams.

b. Opportunities to participate in recess periods and meal periods shall be provided by each school district in the most integrated setting appropriate to the students with disabilities enrolled in each school building.

c. Students with disabilities must be provided an equal opportunity for participation in physical education courses and interscholastic, club or intramural athletics sponsored by the school district.

d. Physical education services, specially designed if necessary, shall be made available to every student with disabilities (see Rule IV.F.7).

e. Each student with disabilities shall be afforded the opportunity to participate in the regular physical education program available to non-disabled students unless;

(1) the student is enrolled full time in a separate facility: or

(2) the student needs specially designed physical education which cannot be provided in the regular physical education program. (Rule IV.F.7)

f. If specially designed physical education is prescribed in a student's IEP, the school district responsible for the education of the student shall provide the services directly to make arrangements for it to be provided through other public or private programs.

5. Program Options. Each public agency shall take steps to ensure that its students with disabilities have available to them the variety of educational programs and services available to non-disabled students in the area served by the agency including: art, music, industrial arts, consumer and homemaking education, and vocational education.

6. Students in Public or Private Institutions. Each public agency, through its placement and IEP procedures, shall ensure that students placed by the public agency in public or private institutions are placed in the least restrictive environment. Implementation of this policy is further ensured through local delivery of services responsibility (see Rule IV.L), private school placement procedures (see Rule IV.N), and state Rules governing private school approval (see Rule II.K and Appendix A).

The Utah State Office of Education shall ensure the implementation of the least restrictive environment provisions through its technical assistance/training and monitoring activities (see Rule II.B, D, and F). If there is evidence that a public agency makes placements that are inconsistent with the LRE requirements, USOE will: (1) review the public agency's justification for its actions, and (2) assist in planning and implementing any necessary corrective actions.

IV.K. Annual Reevaluation of IEP. Each public agency shall initiate and conduct meetings periodically to review each student's IEP and if appropriate, revise its provisions. A meeting must be held for this purpose at least once a year. An IEP review may be requested by a parent, teacher, or other professional at any time. The time of year of the IEP meetings is left to the discretion of the agency.

IV.L. Delivery of Services Responsibility. Each school district has the responsibility to educate its students with disabilities within the district as close as possible to the student's home in a program which is appropriate to the student's needs.

If services are to be delivered outside of the district, documentation of the need for alternative program option(s) is supported by a consensus of the IEP Team membership.

This does not alleviate the district's responsibility for making continued efforts to establish local programs which meet the needs of all its students with disabilities.

In cases where a district serves the student with disabilities at home, such placement shall be utilized only after it is determined in an IEP meeting that other placements are not appropriate

to meet the student's needs. Such home placement must be reviewed at least quarterly by the IEP team, or as necessary, at request of parent or LEA, to determine whether it remains the most appropriate placement for the student.

The responsibility for the provision of special education and related services to a student with disabilities placed in a 24-hour residential setting (group home, apartment, ICFMR, etc.) rests with the school district within which **the residential setting is located.** If **residential** placement for these students is requested to be provided with public education funding, the district of **parents' residence** is responsible for responding to this request.

IV.M. Homebound and Hospitalized Service Pattern for Students with Disabilities. This program is an instructional program designed for identified students with disabilities who are permanently or temporarily homebound or hospitalized.

These services are available to identified students with disabilities who, for reasons of health, accident, or injury (including psychiatric and mental health), are homebound or hospitalized. The teacher of the homebound/hospitalized should maintain contact with the special education teacher and/or the regular classroom teacher from the school responsible for serving the student in the school setting.

In order to qualify for special education services funded through the home district Special Education program service pattern for Homebound and Hospitalized, students must have been identified and classified as having a disability prior to hospitalization.

Subsequent referrals of hospitalized students for evaluation and eligibility determination for Special Education services must be made to the home district. The home district maintains responsibility for the evaluation, classification, and development of the Individualized Education Program (IEP).

The students must be evaluated and classified according to one of the disability conditions as described in these Rules. Classification of the student as belonging in one of the disability categories must follow the approved regulations for diagnosing and evaluating according to that disabling condition (see Section III.H). The student must have an expected absence of at least two weeks.

Components of a local school district's system for service delivery shall include and address the following areas:

1. Service Providers:

   Personnel assigned to provide homebound/hospitalized instruction to students with disabilities will be certified according to Rule VI.G.

2. Amount of Instruction:

   Two hours of instruction per week is required.

3. Initiation of Services:

The delivery of educational services for the H/H student with disabilities must be approved by the health profession contingent upon the student's health and ability to receive instruction.

4. Status of the IEP During H/H Stay:

The IEP developed in the home district will continue to serve as the framework for special education instruction. The home district will have the responsibility to determine what elements of the IEP will continue to be addressed during the period of H/H stay.

5. Responsibility for Services:

The home school district retains responsibility for continuing the educational program of the student during his H/H stay. If the parent does not wish the district to provide the services, and/or if the hospital provides an educational program deemed appropriate by the parents, they may sign a form refusing school district services during the hospital/home stay.

6. Inter-District Cooperation:

The home district is responsible for the homebound/hospitalized services, regardless of where the student is receiving treatment. School districts are encouraged to develop cooperative agreements regarding service delivery and fiscal arrangements, as necessary.

IV. N. Private School Placement (with public education funds). If students with disabilities are placed in or referred to private schools or facilities by the state or local education agency as a means of meeting the educational needs specified in the IEP, the referring agency will be required to assure that:

1. The services provided are in conformance with the IEP;

2. The services provided are at no cost to the parents;

3. The program meets minimum Utah State Office of Education standards. (See Appendix A).

NOTE: Before a public agency places a student with a disability in, or refers a student to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the student in accordance with these Rules. The agency shall assure that a representative of the private school facility attends the meeting. If the representative cannot attend, the agency shall use other methods to assure participation by the private school or facility, including individual or conference calls.

4. When a student with disabilities is offered a free appropriate public education in a public education agency that is readily accessible to his/her home community and the parents waive that opportunity in favor of private school placement, the parents shall assume full financial responsibility for the student's education. However, the public agency shall make special education services available to the student as provided under Section IV.O. of these Rules.

5. If a parent contends that he/she has been forced, at the parent's own expense, to seek private schooling for the student because an appropriate program does not exist, and the responsible agency disagrees, that disagreement and the question of who remains financially responsible is a matter to which the due process procedures apply.

6. Whenever students with disabilities are placed in private schools or facilities by public education agencies, the State Office of Education shall assure that the students have all the rights they would have if educated in a public school.

7. LEAs will be responsible when placing a student in a private school to provide said school with copies of the State Board of Education Special Education Rules and revisions as they occur, and interpret the requirements specified in the Utah State Plan under the IDEA.

8. Responsible persons for conducting programs in private schools will be notified of activities which may result in revision of the State Board of Education Special Education Rules relating to special education and will be invited to participate in such activities.

9. Reviewing and revising individualized education programs.

   a. After a student with disabilities enters a private school or facility, any meetings to review and revise the student's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

   b. If the private school or facility initiates and conducts these meetings, the public agency shall insure that the parents and an agency representative:

      (1) Are involved in any decision about the student's IEP; and

      (2) Agree to any proposed changes in the program before those changes are implemented.

10. Responsibility.

    Even if a private school or facility implements a publicly placed student's IEP, responsibility for compliance with these Rules remains with the sending public agency and the State Education Agency. (See Appendix A)

    The USOE shall monitor compliance with these requirements through procedures such as written reports, on-site visits, and parent questionnaires, through the PAR process.

IV. O. Students with Disabilities Voluntarily Enrolled in Non-Public Schools. The Utah State Board of Education has established the policy which assures that to the extent consistent with the number and location of students with disabilities in the state who are enrolled in private elementary and secondary schools, opportunity will be made for participation by such students in programs and projects as described in their IEPs and which are assisted or carried out under Part B. If the state carries out a project directly, it shall comply with these requirements as if it were a sub-grantee.

1. Policies and Procedures

   a. The special educational and related needs of students with disabilities enrolled in private elementary and secondary schools, the number of such students who will participate in the programs and projects, and the types of services which will be provided for them shall be determined, after consultation with persons knowledgeable of the needs of those students, on a basis comparable to that used in providing for the participation in programs and projects assisted or carried out under IDEA-B for students with disabilities enrolled in public elementary and secondary schools. The SEA will insure that public agencies develop and implement IEPs for such students. The public agency will insure that a private school representative will be involved in meetings to develop, review, or revise IEPs of such students. If the representative cannot attend, the agency shall use other methods to insure participation by the private school, including individual or conference telephone calls.

      The program benefits which a recipient provides for eligible students with disabilities enrolled in private schools must be comparable in quality, scope, and opportunity for participation to those students enrolled in the public school.

   b. The local education agency must consult with appropriate representatives of students enrolled in private schools before the local education agency makes any decisions which will affect the opportunities of private school students to participate in projects.

   c. If a local education agency used Part B funds for public school students in a particular attendance area, grade or age level, the local education agency must then insure that equal opportunities for participation are made available to students enrolled in private schools who have the same needs as the public school students and are in that group, attendance area, age or grade level.

      Representatives from the local education agency shall consult with appropriate representatives of students enrolled in private schools during the development and design of projects and consider:

      - which students will receive benefits, what the benefits will be and how the benefits will be provided;

      - how the student's needs will be identified; and

- how the project will be evaluated.

d. Programs and projects assisted or carried out under IDEA-B shall be designed to include, to the extent consistent with the number of eligible students with disabilities enrolled in private elementary and secondary schools in the geographical area served by the program or project, services which will aid in meeting the special education and related needs of such students.

e. Genuine opportunities shall be made available by the LEA for participation of eligible students with disabilities in special education and related services. These services may be provided through such arrangements as dual enrollment, educational television and radio, or the provision of mobile educational services.

f. Services to eligible private school students may differ from services provided to public school students if it is deemed necessary to meet their needs and the services are comparable in quantity, content, and opportunity as determined by persons knowledgeable of the student's needs.

g. Except in instances where the program benefits for private school students may be different due to necessity, the LEA must insure that it will spend the same average amount of program funds on students enrolled in private schools as those enrolled in public schools who receive similar benefits under the program.

An LEA shall spend a different average amount on program benefits for private school students only if the average cost of meeting the needs of those students is different from the average cost of meeting those same needs of students enrolled in the public schools.

h. Public school personnel may be made available in other than public school facilities only to the extent necessary to provide the special educational and related services required by the students with disabilities for whose needs such services were designed, and only when such services are not normally provided at the private school. The state or LEA providing educational and related services to students in private schools shall maintain administrative control and direction over such services.

The special educational and related services provided with funds under IDEA-B for eligible students with disabilities enrolled in private schools shall not include the payment of salaries of teachers or other employees of private schools, except for services performed outside their regular hours of duty and under public supervision and control, nor shall it include the use of equipment, on private school premises. Subject to the provisions of the Act, mobile or portable equipment may be used on private school premises for such period of time within the life of the current program or project for which the equipment is intended to be used, as is necessary for the successful participation in that program or project by eligible students with disabilities enrolled in private schools.

i. Any program or project to be carried out in public facilities and involving joint participation by eligible students with disabilities enrolled in private schools and students with disabilities enrolled in public schools shall include such provisions as are necessary to avoid classes that are separated by the school enrollment or religious or ethnic considerations of such students.

2. Public Control of Funds and Property

a. The control over the use of funds provided under IDEA-B, and title to and administrative control over property acquired with such funds, shall be in a public agency which will exercise such control. Such funds and property shall be used for the purposes of IDEA-B. The SEA insures that program funds will not be used to finance the existing level of instruction in a private school or to otherwise benefit the private school. The incidental use of such property for other purposes is permitted only for related educational purposes on public premises and only so long as such a use does not interfere with the carrying out of a program or project under IDEA-B.

b. The equipment acquired with IDEA-B funds may be placed on private school premises for a limited period of time, but the title to and administrative control over such equipment must be retained and exercised by a public agency. In exercising that administrative control, the public agency shall not only keep records of and account for the equipment, but shall also assure itself that the equipment is being used solely for the purposes of the program or project, and remove the equipment from the private school premises when necessary to avoid its being used for other purposes or when it is no longer needed for the purposes of the program or project.

3. The Local Education Agency Application Shall Include a Description of:

a. How the applicant will meet the Federal requirements for participation of students enrolled in private schools;

b. The number of students enrolled in private schools who have been identified as eligible to benefit under the program;

c. The number of students enrolled in private schools who will receive benefits under the program;

d. The basis the applicant used to select the students;

e. The manner and extent to which the applicant complied with 34 CFR 76.652 (EDGAR Regulations; consultation);

f. The places and times that the students will receive benefits under the program; and,

g. The difference, if any, between the program benefits the applicant will provide to public and to private school students, and the reason for the differences.

4. Use of Programs Funds For Construction

A public agency shall not use Part B program funds for the construction of private school facilities.

IV. P. Termination of Services. Termination of special education/related services to a student with a disability must be made through a team meeting, held for reviewing or changing a student's IEP. Participants in the meeting must be the same as in the IEP requirement, including the parent(s) (Rule IV.B). Discontinuation of special education services may be because:

1. The student no longer qualifies for special education services, as determined by the team (declassification), or

2. Refusal of services by the parent. In this case services are discontinued but the student is not declassified, and eligibility for services continues until the expiration of the three year evaluation period. Such a refusal of service must be documented in writing and signed by the parent/guardian.

NOTE: If school personnel disagree with the decision of the parent to terminate special education, the district must request a due process hearing in order to allow the services to continue. (see Rule III.D, Parental Consent, and V, Due Process Hearing Procedures).

Regardless of a parent's decision to terminate services, the district's obligation to provide an eligible student with disabilities with a free appropriate public education still exists. Therefore, it is important to retain documentation of the refusal of services.

IV. Q. Short Term Suspension From School. Each school district shall adopt procedures for suspension of students with disabilities from school. A district's procedures must address each of the items listed in this section.

1. A school district may suspend students with disabilities from school for a period not to exceed 10 official school days if the school district, after following the procedures in Item 2 below, determines that:

   a. Maintaining the student in his/her current placement is substantially likely to result in injury to self or to other persons; or

   b. The student has engaged in conduct which would otherwise warrant suspension or removal for a non-disabled student.

2. When making the determination to suspend a student with a disability for a period not to exceed 10 official school days for disciplinary reasons, the school district shall immediately (within 24 hours) provide the student and the student's parents with notice of the disciplinary charges and the evidence supporting the charges and the decision to suspend the student.

3. A suspension of more than ten school days in duration constitutes a change in placement and requires that prior notice be given to parents (see Rule III.D, Prior Notice).

   a. In the event the school district needs to suspend a student for more than ten official school days, the school district will request parental written approval for continued suspension, or agreement to an interim placement.

   b. During a period of continued suspension, the school district shall (1) provide homebound educational services, (2) complete a formal reevaluation, and (3) conduct an IEP meeting. The period of continued suspension shall not exceed thirty (30) calendar days.

   c. In the event the school district needs to suspend a student for more than ten official school days and the school is not able to obtain parental agreement for an interim placement or continued suspension, the school district shall apply to a court of competent jurisdiction for permission to do so.

   d. A court of competent jurisdiction is a court to which a state level review decision can be appealed pursuant to Section 615 of IDEA.

4. Emergency Removal - where the student poses an immediate threat to self or others, the school district may promptly suspend him/her for up to ten school days, without prior notice. As soon as possible (no longer than 24 hours), parents will be provided with notice and justification for such action, and procedures begun to remediate the situation. A suspension of more than ten school days constitutes a change of placement, governed by Rule IV.P.3, above.

5. The maximum of ten school days shall be cumulative, in a given year.

IV. R. Confidentiality of Information. Each public agency shall establish and implement procedures which meet the requirements under 34 CFR 300.560-576, and the Utah State Plan for the Individuals with Disabilities Education Act. The following requirements must be met:

1. Notice To Parents.

   a. The USOE/LEAs will provide for notice which is adequate to fully inform parents about the LEAs requirements related to the identification, location, and evaluation of students with disabilities and where appropriate the notice will be provided in the native language of the home.

   b. Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State/school district of the activity.

   c. Collection of personally identifiable information maintained on students eligible for special education services. This includes information relevant to a student's specific disability condition, diagnostic report which determines the

existence of such a disability, and the individualized educational program designed to meet the student's needs. Personally identifiable information will be gathered from in-school screening, qualified diagnostic examinations and other appropriate sources as deemed necessary to complete a comprehensive assessment.

d. Parents and eligible students shall be informed of rights and procedures the public agency has adopted to protect the confidentiality of personally identifiable information. In addition, each public agency shall annually notify parents and eligible students, by such means as are reasonably likely to inform them, of these rights, in the primary language of the home. (See Rule III.D.1.a.)

(1) The right of access to personally identifiable information by parents or eligible students.

(2) The assurance that a record is maintained of parties obtaining access to personally identifiable information except for parents and authorized employees of the educational agency(ies) serving the student.

(3) The parental right of access to the education records concerning only his/her child.

(4) The right to know the location of personally identifiable information upon request.

(5) The parental right to a copy of the educational record for the standard copying fee, except that the parent shall be given, upon request, a copy of the IEP, without charge.

(6) The parental right to request the amending of the educational record.

(7) The parental right to a hearing to challenge the educational record of his/her child.

(8) The assurance that parental permission will be obtained prior to disclosure to any third party, other than authorized employees of the educational agency serving the student.

(9) The assurance that each agency possessing personally identifiable information will safeguard its confidentiality.

(10) The parental right of notification prior to destruction of personally identifiable information.

2. Right of Access.

a. Each participating agency shall permit parents to inspect and review any education records relating to their student which are collected, maintained, or

used by the agency under these Rules. The agency shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation or placement of the student, and in no case more than 45 calendar days after the request has been made.

b. The right to inspect and review education records under this section includes:

(1) The right to response from the participating agency to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent inspect and review the records, with permission of the parent.

c. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

3. Record of Access. Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

4. Records of More Than One Student. If any education record includes information on more than one student, the parents of each student shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

5. List of Types and Locations of Information. Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

6. Fees.

a. A participating education agency may charge a fee (not to exceed cost of copying) for copies of records which are made for parents under this part, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

b. A participating agency may not charge a fee to search for or to retrieve information under this part.

c. A copy of the IEP shall be provided at no cost to parents.

7. Amendment of Records at Parents Request.

a. A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the student, may request the participating agency which maintains the information to amend the information.

b. The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

c. If the agency decides to refuse to amend the information in accordance with the request it shall inform the parent of the refusal, and advise the parent of the right to a hearing under 34 CFR 300.568.

8. Opportunity for a Hearing.

a. The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

b. If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parents in writing.

c. If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parents of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

d. Any explanation placed in the records of the student under this section must:

(1) Be maintained by the agency as part of the records of the student as long as the record or contested portion is maintained by the agency; and

(2) If the records of the student or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

9. Hearing Procedures. A hearing which challenges the education records must be held in accordance with 34 CFR 99.23, 34 CFR 300.568, and procedures described below. At a minimum, a public agency's hearing procedures must include the following elements:

a. The hearing shall be held within a reasonable period of time after the public agency received the request, and the parent of the student or eligible student

shall be given notice of the date, place and time reasonably in advance of the hearing.

b. The hearing may be conducted by any party, including an official of the public agency, who does not have a direct interest in the outcome of the hearing.

c. The parent of the student or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised, and may be assisted or be represented by individuals of his or her choice at his or her own expense, including an attorney.

d. The public agency shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.

e. The decision of the public agency shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

10. Parental Consent.

a. Parental consent must be obtained before personally identifiable information is:

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part; or

(2) Used for any purpose other than meeting a requirement under this part.

b. An educational agency may not release information from education records to participating agencies without parental consent unless authorized to do so by 34 CFR 99.31 and 99.34.

(1) Regulation 34 CFR 99.31 states that:

(a) an educational agency or institution may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student if the disclosure is:

1) To other school officials, including teachers, within the educational institution or local educational agency who have been determined by the agency or institution to have legitimate educational interests;

2) To officials of another school or school system in which the student seeks or intends to enroll, subject to the requirements set forth in 34 CFR 99.34, below.

(2) Regulation 34 CFR 99.34 states that:

(a) An educational agency or institution transferring the education records of a student pursuant to 34 CFR 99.31 above shall make a reasonable attempt to notify the parent of the student or the eligible student of the transfer of the records at the last known address of the parent or eligible student, except:

1) When the transfer of the records is initiated by the parent or eligible student at the sending agency or institution, or

2) When the agency or institution includes in its annual notice of parents' rights that it is the policy of the public agency to forward education records on request to a school in which a student seeks or intends to enroll, then the public agency does not have to provide any further notice of the transfer of records.

c. An educational agency receiving personally identifiable information from another educational agency or institution may make further disclosures of the information on behalf of the educational agency without the prior written consent of the parent or eligible student if the conditions of 34 CFR 99.31 and 99.34 noted above are met, and if the educational agency informs the party to whom disclosure is made of these requirements.

d. If the parents refuse consent for the release of personally identifiable information to a third party, then that party may proceed with statutory procedures in an effort to obtain the desired information.

11. Safeguards.

a. Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction states.

b. One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

c. All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures concerning personally identifiable information.

d. Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information on students with disabilities. The listing shall include: the name of district, name of school, school year, persons having access, and name of records manager.

e. The above listing, where appropriate, must include the names and positions of consultants employed by the district who may require access, for legitimate educational reasons, to student records. This also includes student teachers or practicum students from universities, under the direction and supervision of school officials.

12. Destruction of Information.

a. The public agency shall inform parents when personally identifiable information collected, maintained or used under this part is no longer needed to provide educational services to the student.

b. The information no longer needed must be destroyed at the request of the parents. However, a permanent record of the student's name, address, and phone number, his or her grades, attendance record, classes attended, and grade level completed may be maintained without time limitation.

13. Student's Rights. All of the foregoing parental rights are extended to the student when reaching the age of majority unless the student has been declared incompetent by court order and assigned a guardian.

14. Annual Notification.

a. Each education agency or institution shall annually notify parents of students currently in attendance and eligible students currently in attendance at the agency or institution of their rights under IDEA-B and these Rules. The notice must include a statement that the parent or eligible student has a right to --

(1) Inspect and review the student's education records;

(2) Request the amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;

(3) Consent to disclosure of personally identifiable information contained in the student's education records, except to the extent that the IDEA-B and FERPA regulations authorize disclosure without consent, as described above;

(4) File with the U.S. Department of Education a complaint concerning alleged failures by the agency or institution to comply with the requirements of the Act and this part; and

(5) Obtain a copy of the agency's policy.

b. The notice provided under paragraph (a) of this section must also indicate the places where copies of the agency's policy are located.

c. An educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents and eligible students of their rights.

d. An agency or institution of elementary or secondary education shall effectively notify parents of students who have a primary or home language other than English.

15. Enforcement.

a. Confidentiality requirements are monitored annually as part of the LEA Application Process under IDEA-B and as part of special education technical assistance.

b. Confidentiality is monitored through the Program Administrative Review (PAR) process at least once every three years and includes sanctions to ensure these requirements are met.

IV. S. Extended School Year Services. The state standards which are applicable to the provision of extended school year services, including definitions, are contained in this section.

1. Definitions are as follows:

a. "ESY services" means extended school year services: special education and related services which are provided to eligible students during the period of time between the close of one academic year and the beginning of the succeeding academic year.

b. "Academic year" means the period of a year, which may not be less than the period required by state statute, during which the regular day school is maintained.

c. "Regression" means reversion to a lower level of functioning, evidenced by a decrease in the level of basic behavioral patterns or skills, which occurs as a result of an interruption in educational programming. These behaviors or skills are specified on a student's current IEP.

d. "Recoupment" means recovery of basic behavioral patterns or skills, specified on the IEP, to a level demonstrated prior to the interruption of educational programming.

e. "Self-sufficiency" means specific skills and behaviors which a student must master to achieve an appropriate level of functioning in view of the student's disabling condition. Each instructional area in the IEP is analyzed to determine its relationship to self-sufficiency in view of the student's needs. The IEP team determines what is an appropriate level of functioning.

f. "ESY program" means the individual educational program provided by the school to a student during the extended school year.

g. "Board" means the Utah State Board of Education.

h. "Multidisciplinary team" means an evaluation team, each member of which is qualified in a specialty area related to student evaluation, which includes members from a variety of disciplines. The team must include at least one teacher, or other professional, knowledgeable in the area of the student's disability.

2. The determination of eligibility includes:

a. Students eligible for ESY Services are:

(1) those who require an extended school year to remain in their current least restrictive environment placement; and/or

(2) those for whom attainment of their expected level of self-sufficiency and independence is unlikely, in view of their disabilities, without ESY services.

b. The multidisciplinary team must document that a delay or break in the provision of special education and related services would result in an education program of little benefit to the student. Despite the lack of definitive documentation, a student with disabilities may not be denied ESY services if the IEP team determines the need for such services.

c. The multidisciplinary team shall meet to determine recommendations for eligibility for ESY services.

(1) if a student is recommended as eligible, the multidisciplinary team takes necessary steps to convene the IEP team to develop the student's ESY program. If the need is documented, the ESY program may be written into the student's regular IEP;

(2) if a student is recommended as ineligible, the multidisciplinary team notifies the student's parents in writing of the decision;

(3) both the written recommendation of ineligibility and the scheduling of the IEP must be accomplished in sufficient time to permit any party to exhaust administrative remedies prior to the beginning of the ESY program. Parents shall be informed of their rights and of procedures through which they may challenge the decision of the multidisciplinary or the IEP team.

3. The primary goals of all students requiring ESY services are to become as functionally independent as possible within the limits of their disabilities and to be maintained in the least restrictive environment appropriate to their needs. The program of special education and related services is designed to maintain, in the appropriate least restrictive environment, the current level of a student's skills and behavior in areas identified by the student's IEP team.

a. The type and length of the program which a student requires is determined on an individual basis and need not be comparable to the program previously provided.

b. New goals and objectives may not be added to a student's IEP for implementation in the ESY program. Programs shall consist of activities developed to maintain skills identified on the IEP developed for the academic year.

c. Related services shall be provided when required for the student's skills to be maintained.

d. The least restrictive environment available during summer programming must be considered for ESY programs.

4. Division of responsibilities include:

a. The duties of the Utah State Office of Education shall include:

(1) monitoring ESY compliance through:

(a) district program administrative reviews;

(b) making on-site reviews of LEA plans and district special education policies and procedures;

(c) providing technical assistance; and

(d) requiring attendance and membership accountability.

(2) providing technical assistance to districts;

(3) collecting data on:

(a) the number and disabilities of students served;

(b) the types of program delivery models used; and

(c) program effectiveness.

(4) developing guidelines

b. The duties of local school districts shall include:

(1) establishing district procedures which are in accordance with Board Rules;

(2) providing inservice workshops and on-site visits to assure that Board and district procedures are appropriately understood and implemented;

(3) establishing timelines to accomplish the purposes of this Rule;

(4) analyzing district-wide needs, reported by professionals, or ESY services for individual, eligible students;

(5) determining district ESY program parameters based upon data received from educators on individual, eligible students. The parameters shall include the personnel required to provide special education and related services, location of services, and budget specifications;

(6) ensuring parents and professionals have received information about due process and grievance procedures for the appeal of eligibility determinations and program parameters; and

(7) implementing processes to collect program effectiveness data.

c. The duties of LEA representatives shall include:

(1) establishing multidisciplinary team timelines and programming level procedures in accordance with Board and district rules and policies:

(a) setting collection timelines for gathering regression and recoupment data;

(b) identifying students who are potentially eligible for ESY services;

(c) scheduling multidisciplinary team meetings required to summarize data and make recommendations regarding eligibility; and

(d) scheduling IEP team meetings to determine eligibility for ESY services and to develop appropriate ESY programs.

(2) transmitting relevant information to the district.

d. The duties of multidisciplinary teams shall include:

(1) reviewing current IEPs for students identified as potentially eligible for ESY services;

(2) reviewing data and input collected from educators, other professionals, and parents;

(3) recommending from existing information student eligibility for ESY services;

(4) setting dates for eligible students' IEP team meetings;

(5) notifying, in writing, the parents of ineligible students of the recommendation of ineligibility, informing them of their rights, and

informing them of procedures through which the recommendation may be challenged. The written notice must be sent in accordance with district timelines; and

(6) reviewing data collection procedures.

e. The duties of educators shall include:

(1) identifying students potentially eligible for ESY services and verifying the list of students identified as potentially eligible for ESY services;

(2) identifying IEP goals and objectives related to areas required to maintain current placement. This may be done at the time the IEP is developed for the academic year;

(3) indicating known or reported conditions or behaviors that may be exhibited in the educational environment or elsewhere, that, if not provided for in an appropriate educational environment or pro-active educational program, may cause regression;

(4) establishing and implementing on-going data collection processes for continuous monitoring of student progress, including data to provide information about the following:

(a) how often a review of previously introduced material is required;

(b) whether the student demonstrates inconsistency in the mastery retention of skills;

(c) critical stages reached by the student in mastery of skills;

(d) whether the student requires a more intense rate of instruction than similar students with a like disability in order for progress to take place;

(e) regression and recoupment periods for a student based on a consensus of input from parents, advocates, and professionals:

1) a reasonable recoupment period for a break planned by the educational agency for eight to twelve weeks is 20 instructional days, of three to four weeks is five to seven instructional days, or two weeks is three instructional days;

2) exceptions to the number of days constituting a reasonable recoupment period may be granted on a case-by-case basis by the IEP team.

3) sources of data for documenting regression and recoupment periods may include:

a) achievement of goals on successive IEPs;

b) progress reports maintained by educators, therapists, and others having direct contact with the student before and after interruptions in the education program;

c) reports by parents of negative changes in adaptive behaviors over break periods;

d) medical and other agency reports indicating degenerative-type difficulties which become exacerbated during breaks in educational programming;

e) observations of educators and others;

4) techniques to collect data for documentation may include:

a) daily monitoring;

b) behavior checklists; student self-assessments, parent assessments, and professional assessments;

c) documented observation of the student;

d) specific professional assignment evaluations.

(f) The role of a student's parent or guardian in at home follow-up of education programs which are related to areas of self-sufficiency, including the following:

1) the complexity of the program to be carried out at home;

2) the level of expertise required to maintain skills at home;

3) the amount of time required.

(5) retrieving, at specified intervals, data related to acquired skills and regression and recoupment;

(6) evaluating data in multidisciplinary team conferences;

(7) reviewing and summarizing, with the multidisciplinary team, data results in a format required by the district; and

(8) meeting with the IEP team to review regression and recoupment of skills in areas of self-sufficiency.

f. The duties of the IEP team shall include:

(1) reviewing data and documentations of the multidisciplinary team and determining eligibility;

(2) reviewing the recommendations of the multidisciplinary team and determining eligibility; and

(3) developing an extended school year program for eligible students.

g. The duties of a parent of a student approved for the ESY services shall include:

(1) meeting with the members of the student's IEP team to formulate the IEP and identify goals and objectives related to areas of self-sufficiency;

(2) completing parent questionnaires as appropriate; and

(3) following through with the educational program, as agreed to, at home in concert with school team efforts.

IV. T. Preschool Services. Services for preschool children, ages three to five inclusive, are to be provided consistent with these Rules, with the following additions/exceptions:

1. **Child Find.** In addition to the requirements in section III A, child find activities must be coordinated with public and private state and local Part H service providers.

2. **Pre-Referral Procedures** are not applicable for preschool eligibility.

3. **Preschool Classification.** The classification **Developmental Delays** may be used for all preschool aged children eligible for special education. Children may also be classified according to Part B categories, as described in these Rules.

4. **Transition Planning.** Transition planning for children referred from Part H providers must be conducted, consistent with the state's current interagency transition agreement and shall be implemented at least ninety (90) days before a student is eligible for the preschool program under IDEA-B in accordance with state law and these implementing Rules.

   Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability, or, at the discretion of the LEA, and with the concurrence of the parents, an Individualized Family Service Plan (IFSP) for each child with a disability, age three or above, who remains appropriately placed in a Part H program.

Transition planning for entry to school-aged programs shall be addressed in the IEP and, in addition, transition planning must include:

a. Providing parents with information regarding school-age programs.

b. Conducting inservice training for special education staff on school-age eligibility requirements for services.

c. Assisting parents in transition activities.

d. Sharing information regarding service needs with appropriate staff for planning and development options, with parental consent.

e. Including appropriate personnel from receiving settings in transition planning as appropriate.

5. **Services at Age Three**. For those students who turn age three during the school year and who are enrolled in early intervention programs, FAPE must be made available for eligible students on their third birthday. At the option of the team, the child may continue service under an IFSP in the Part H program. However, when the student is transitioned and placed into an LEA preschool program, the student must have an IEP.

6. **Service Delivery**. When it is determined through the IEP process that the above student's placement, under the auspices of the Interagency Transition Agreement with the Health Department continues to be the appropriate placement, the student shall remain in the program.

7. **Students at Age Six**. When a student with developmental delays turns six years of age, the district must determine the student's categorical classification as specified in these Rules.

8. **Head Start Students**. Students counted under the preschool program being served by Head Start must meet all of the requirements in these Rules, including meeting the eligibility criteria and the provision of FAPE.

9. **Least Restrictive Environment.** There are a variety of placements that can meet the needs of preschool children with disabilities and the continuum of alternative placements required under 34 CFR 300.551 must include the alternative placements. The appropriate setting for a particular child may be home-based services rather than an integrated setting. Home-based services, however, should not be the only placement option available for a student of a particular age or disability. For public agencies that do not operate preschool programs for nondisabled preschool children, some alternative methods for meeting the requirements under 34 CFR 300.550-300.556 include: (1) providing opportunities for the participation (even part-time) of preschool children with disabilities in other preschool programs operated by public agencies (such as Head Start); (2) placing children with disabilities in private school programs for nondisabled preschool children or private preschool programs that integrate

children with disabilities and nondisabled children; and (3) locating classes for preschool children with disabilities in regular elementary schools. The public agency responsible for the special education and related services for a child must ensure that the placement is based upon the individualized education program and meets the unique needs of the child.

Public agencies that do not operate programs for nondisabled preschool children are not required to initiate such programs solely to satisfy the requirements regarding placement in the least restrictive environment. Similarly, public agencies are not required to establish extensive contract programs with private schools which serve both children with disabilities and children without disabling conditions solely to implement LRE requirements. Those agencies not providing programs for nondisabled preschool students may do so as described in items 1 through 3 in the previous paragraph. Generally, the use of facilities which are separate or otherwise solely devoted to children with disabilities is permissible only when necessary to meet an individual child's specific needs, and should not be the only option available.

IV. U. Program Coordination for Students with Hearing and Visual Impairments. As required by U.C.A. 53A-25-104, each school district has the responsibility to educate its students with disabilities within the district as close as possible to the student's home in a program which is appropriate to the student's needs. If services are to be provided by an agency other than the local school district, documentation of the need for alternative program option(s) must be supported by a consensus of the Individualized Education Program (IEP) Team. The Utah Schools for the Deaf and the Blind (USDB) is a program option for hearing impaired and visually impaired students who need the specialized educational and support services that are made available through its statewide extension classroom network or in the USDB campus program. Program options available to students with sensory impairments and their families must be considered on an individual basis through the cooperative efforts of each school district and the USDB.

1. **Referral for Evaluation.** The USDB along with each school district will use the following written procedures for making a referral for an individual evaluation and for the actions to be taken on the referral. As specified, these procedures will cover visually impaired and hearing impaired students between the ages of **three through 21**. The USDB and all LEAs shall follow all State Board of Education Special Education Rules, including Prior Notice and Parental Consent, Protection in Evaluation Procedures and Independent Educational Evaluation.

2. **Eligibility Process.** The process of formally determining what special education services and programs will be available to students with hearing or visual impairments will begin when the student reaches age three. At that time USDB/LEA will ensure the following will happen:

   a. The student's identity, residence and any existing evaluative information will be forwarded by appropriate child find agencies or service and preschool providers to the appropriate local education agency.

   b. An appropriate multidisciplinary team will be identified from USDB and LEAs to assess all areas of delay and determine the student's eligibility for services.

USDB personnel are available for assisting the LEA in evaluating hearing impaired/visually impaired students and determining the significance of each student's hearing and/or visual impairment as well as their respective relation to other areas of development.

c. The multidisciplinary team should include the student's parent(s) or surrogate parent(s), whenever possible. (Parents constitute a valuable source of information concerning their child in the evaluative, diagnostic, and eligibility determination process. They shall be fully informed of the evaluation results.)

d. The meeting shall be scheduled so that the multidisciplinary team can review information collected and needed for determining eligibility. The results of all eligibility meetings shall be documented by the multidisciplinary evaluation team. This report along with the individual assessments completed by each team member, including diagnostic protocols shall be maintained in a student's confidential folder.

e. The multidisciplinary team shall follow accepted procedures pertaining to determining eligibility. The USOE's eligibility criteria for classifying students as Hearing Impaired, Visually Impaired or Dual Sensory Impaired (Deaf-Blind) are contained in Rule III.H.

f. The multidisciplinary team shall follow accepted procedures pertaining to evaluating students with disabilities. The Utah Schools for the Deaf and the Blind and school districts will follow the Rules for determining eligibility as previously described. (Rule III.G. and H.)

g. The Multidisciplinary Team may request additional assistance from USOE/USDB for technical assistance for visually impaired/hearing impaired students who require specialized evaluations. In addition, the USDB would be available to provide technical assistance to local school districts as they develop and/or implement evaluation policies/practices.

3. **Service Delivery.** Once eligibility for services is determined, the multidisciplinary team, including representatives from the LEA and USDB, will initiate the IEP process (including the parent) which will entail:

a. Developing the student's Individual Education Program (IEP), and

b. Determining an appropriate placement based on the IEP.

All State Board of Education Special Education Rules (Rule IV. A-U) related to IEPs including parent participation, content, and transition planning apply.

4. **Determining Appropriate Placement.** At the designation of the multidisciplinary team and based on the student's IEP, either the LEA or USDB shall serve as the student's service provider. Policies and procedures will ensure that:

a. All options (USDB and LEAs) are reviewed during the IEP and placement meeting. The team shall include persons knowledgeable about the student, the meaning of the evaluation data, and placement options. This individualization of education placement shall be considered at least annually and be based on the student's individualized education program.

b. The team will justify the type of placement by indicating the reason(s) the team selected this particular placement option, including amount of service and other alternatives that have been attempted or considered.

c. Written parental permission for placement will be obtained before a student is placed in a special education program for the first time.

d. Evaluation of the student's IEP will be reviewed as needed, but not less frequently than once each year.

e. Evaluation of each student's IEP will be made on the basis of data collected during the year.

f. A new IEP is written annually if the student still qualifies for services.

5. **Due Process Hearings.** Due Process Hearings which meet all requirements of Rule V may be conducted by either USDB, or the LEA of the child's residence, according to the following distinction.

a. If the issue of dispute is placement at USDB, the LEA is responsible for conducting the Due Process Hearing.

b. If the issue of dispute is some aspect of the provision of Special Education/Related Services of a student **already placed** at USDB, then USDB is responsible for all aspects of the Due Process Hearing.

The parents of students placed at USDB shall be provided written notification of this distinction regarding due process responsibility.

V. DUE PROCESS HEARING PROCEDURES. Consistent with the requirements of 34 CFR 300.506-513, and the Utah State Plan for the Individuals with Disabilities Education Act, the procedures noted below shall be utilized for conducting due process hearings in the State.

V. A. Request for Hearing.

1. If the parents or guardians of a student with disabilities are aggrieved by a decision or public agency's proposal to initiate or change, or refusal to initiate or change, the identification, evaluation, educational placement or the provision of a free appropriate education, they are guaranteed an impartial due process hearing of their complaint which is to be made in writing to the local school district superintendent. The public educational agency may also initiate a hearing, as may also, a student with a disability or who is suspected of having a disability who is the age of majority, and has not been declared incompetent by a Utah Court.

2. Upon receipt of a written request for a hearing, the local school district superintendent shall (1) inform the parent or guardian in writing of any free or low-cost legal services as well as other services relevant to mediation or a due process hearing, including the provisions of the Handicapped Children's Protection Act, and the right to waive the mediation conference, and (2) notify the State Director of Special Education of the request for the hearing. The parent shall also be informed of free or low-cost legal services at any other time he/she asks.

3. The local school district shall be responsible for conducting an impartial due process hearing, including costs associated with the proceedings (See section V.K.).

4. The local school district superintendent shall ensure that within 45 calendar days after receipt of the written hearing request the hearing is immediately commenced and completed, including any mediation conducted pursuant to these Rules, and a final decision is rendered, unless a continuance has been granted.

V. B. Mediation.

1. Within five working days upon receipt from a local school district superintendent of a written request for a hearing pursuant to these Rules, the State Director of Special Education shall appoint an SEA staff member as mediator to conduct a mediation conference, unless either party waives the mediation conference. The purpose of the mediation conference is to attempt to resolve the differences and, if possible, avoid a hearing.

   a. The State Director of Special Education shall appoint an SEA staff member trained to carry out all mediation activities. If the school district elects to use a mediator other than the appointed SEA staff member, the district shall be responsible for all costs associated with mediation, including payment of the mediator's fees, from state or local monies.

   b. The State Director of Special Education shall ensure that mediation is viewed as voluntary and freely agreed to by both parties and is in no way used to deny or delay an aggrieved party's rights to a hearing.

c. The mediation conference shall be an intervening, informal process conducted in a nonadversarial atmosphere.

d. The mediation shall be completed within 15 calendar days of receipt by the State Director of Special Education of the request for the hearing.

2. Either party to the mediation conference may request the hearing officer to grant a specific extension of time. Such an extension shall be granted upon a showing of good cause. Any extension shall not extend the 45 calendar day maximum for completion of the due process hearing and rendering of the final administrative decision, unless the hearing officer is agreeable to such an extension.

3. The mediation resolution shall not conflict with state or federal law and shall be to the satisfaction of both parties. Satisfaction shall be indicated by the signatures of both parties on the written resolution.

4. A copy of the written resolution shall be mailed by the mediator to each party within five calendar days following the mediation conference. A copy shall also be filed by the mediator with the State Director of Special Education.

5. Following the resolution, the USOE will ascertain that the mediation agreement has been fully implemented by the responsible public agency. Should it be determined that the responsible public agency has not implemented the provisions of the agreement, USOE will implement enforcement procedures.

V. C. Assignment of Hearing Officer.

1. If either party refuses to participate in a mediation conference or other proposed mediation steps, or if mediation efforts fail to settle the differences between the parties, the local school district superintendent, jointly with the parents, shall select an independent hearing officer. The public agency shall maintain a register of persons who may serve as hearing officers, including their qualifications, that has been approved by the State Office of Education. The independent hearing officer shall carry out all appropriate activities in conformance with the State Office of Education procedures.

2. If an agreement cannot be reached by both parties on the selection of the independent hearing officer, the matter shall be submitted to the State Superintendent of Public Instruction who shall appoint the hearing officer.

3. An independent hearing officer shall not be assigned from the register to a particular hearing who, with respect to that hearing, has any personal or professional bias or interest which might conflict with his or her objectivity toward either of the parties to the hearing or any of the issues to be decided in the hearing. An employee of the state or local education agency involved in the education or care of the student shall also be excluded from serving as a hearing officer.

4. An individual who otherwise qualifies to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

5. A hearing officer may at any point withdraw from consideration or from service in any hearing in which he or she believes a personal or professional bias or interest of any of the issues to be decided in the hearing exists which might conflict with his or her objectivity.

V. D. Pre-Hearing Procedures.

1. Within a reasonable time the hearing officer shall provide the parent or guardian and the school district written notice of the date, time, and place of the hearing.

2. The hearing officer shall ensure that the hearing is conducted at a time and place reasonably convenient to the parents and student involved.

3. At the discretion of the hearing officer, a pre-hearing conference shall be held in order to: (1) clarify the issue(s) of the hearing, (2) review the hearing rights of both parties, (3) review the procedures for conducting the hearing, and (4) afford both parties the opportunity for disclosure. In no event, will such pre-hearing conference be held later than five days prior to the hearing.

4. Each party shall disclose to the other the full name, title, occupation and place of employment of each witness; a capsule summary of the witnesses' testimony and any other evidence to be presented. These disclosures must be made at least five calendar days prior to the hearing.

5. During a pre-hearing conference conducted pursuant to this section, or in the alternative through the delivery of a written notice, the hearing officer shall ensure that the parents are provided a full explanation of their hearing rights.

V. E. Hearing Rights. Any party to a hearing has the right to:

1. Be accompanied and advised by counsel and by others with special knowledge or training with respect to the problems of students with disabilities.

2. Present evidence and confront, cross examine and compel the attendance of witnesses.

3. Prohibit the introduction of any evidence at the hearing which has not been disclosed to that party at least five days prior to the hearing.

4. Obtain a written or electronic verbatim record of the hearing.

5. Obtain written findings of fact and decisions.

V. F. Parent Rights in Hearing. In addition to the rights noted above, parents are assured of their right to have the child present who is the subject of the hearing, and to determine whether the hearing shall be open or closed to the public.

NOTE: The USOE Compliance Officer for Part B shall attend all Due Process Hearings to assure that required procedures are followed.

V. G. Decision of Hearing Officer. The hearing officer's decision shall be issued in accordance with the following requirements:

1. Such decision will be in writing and shall be sent by certified mail or hand-delivered within 45 calendar days after the request for the hearing to the parents, to the local education agency, to their respective representatives, and to the USOE Compliance Officer who shall transmit the findings and decisions to USBEACH and make them available to the public, after deleting any personally identifiable information.

2. The decision of the hearing officer will include findings of fact, conclusions, and reasons for these findings and conclusions. If the decision is to disapprove a proposed education program, it will include a statement as to what is an adequate and appropriate educational program for the student. If the decision is to approve a proposed educational program, it should include a finding that a less (or more) restrictive program could not adequately and appropriately serve the student's educational needs.

3. The decision of the hearing officer shall be based solely on evidence and testimony presented at the hearing.

4. A verbatim record of the proceedings at the hearing will be made, which shall include any materials or statements specifically requested by any of the parties to appear in the record and shall be made available to the parties to the hearing.

5. The decision of the hearing officer is binding upon the parents and upon the local education agency, its officers, employees and agents, unless a party to the hearing appeals the decision to the Utah State Office of Education.

6. Following rendering of the decision, the Utah State Office of Education will ascertain that the decision has been fully implemented by the responsible public agency. Should it be determined that the responsible public agency has not implemented these orders, USOE will implement enforcement procedures.

V. H. Administrative Appeal.

1. When a hearing is conducted by a public agency other than the State Education Agency, any parties aggrieved by the findings and decision of the hearing officer may appeal to the Utah State Office of Education. The appeal and request for an impartial review must be made in writing, within 30 calendar days of the receipt of the hearing officer's decision, to the State Director of Special Education by the party appealing the decision.

2. If there is an appeal, the local school district superintendent, jointly with the parents, shall select a panel of three qualified hearing officers to provide for an impartial review of the hearing, which must be completed not later than 30 calendar days after the receipt of the request, unless the panel of hearing officers grants a specific extension of time, upon request of either party. The panel conducting the review shall:

a. Examine the entire hearing record;

b. Insure the procedures at the hearing were consistent with the requirements of due process;

c. Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in Sections E & F above apply;

d. Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing officials; if oral arguments are involved, they shall be conducted at a time and place reasonably convenient to the parent and student;

e. Make an independent decision on completion of the review;

f. Provide a copy of written findings and the decision to the parties, (as described in Rule V.G.1), within 30 calendar days of the request for the review;

g. The USOE compliance officer shall transmit the findings and decision to USBEACH and make them available to the public, after deleting any personally identifiable information.

h. The decision made by the reviewing officials is final unless a party brings a civil action.

i. Following rendering of the decision, the Utah State Office of Education will ascertain that the decision has been fully implemented by the responsible public agency. Should it be determined that the responsible public agency has not implemented these orders, USOE will implement enforcement procedures.

3. If an agreement cannot be reached by both parties on the selection of the independent hearing panel, the matter shall be submitted to the State Superintendent of Public Instruction who shall appoint the hearing panel.

4. The panel of hearing officers conducting the review may not include the chief State school officer, a member of the State board of education, or an employee of the State educational agency or any other public agency in the State that is involved in the education or care of the child.

V. I. Civil Action. Any party aggrieved by the decision of the reviewing officials on appeal has the right to bring a civil action under Section 615 of the Individuals with Disabilities Education Act. A civil action may be filed in either state or federal court.

V. J. Student's Status During Proceedings.

1. During the pendency of any administrative hearing or judicial proceeding pursuant to these Rules, the student involved must remain in the present educational placement unless the school district and the parents agree otherwise.

2. If the hearing involves an application for initial admission to public school, the student, with the consent of the parents, must be placed in the public school program of the school district until the completion of all the proceedings.

3. While the placement may not be changed during an administrative or judicial proceeding, unless public agency and parents agree otherwise, this does not preclude the school district from using its normal procedures for dealing with students who are endangering themselves or others. (See Rule V.2.)

V. K. Expenditures Associated With The Hearing And Appeal. The local school district shall be responsible for paying administrative costs related to a hearing or appeal, including necessary expenses incurred by the hearing officers and any stenographic services, in accordance with SEA policies and procedures. The parties involved shall each be responsible for any legal or other fees that they incur. IDEA-B funds may not be used to pay the costs of the mediation, hearings or appeals.

V. L. Reasonable Attorneys' Fees. Pursuant to Section K above, concerning the responsibility for legal costs associated with hearings, a public agency may be responsible for the reasonable attorneys' fees incurred by a parent under the provisions of the Handicapped Children's Protection Act of 1986, if the parent is the prevailing party in an administrative or judicial proceeding. The public agency shall inform parents that in any action or proceeding under Section 615 of IDEA-B, courts may award parents reasonable attorneys' fees under the circumstances described in Section 615(e)(4) of the Act. (See Rule V.A.2.)

VI. ADMINISTRATION AND GOVERNANCE

VI. A. Annual Application For IDEA-B Funds. Annually, the Utah State Office of Education (USOE) shall notify Local Educational Agencies (LEA) of the availability of federal funds under the Individuals with Disabilities Education Act, Part B (see Rule II.E.).

In order to receive IDEA-B 75% flow-through funds, each LEA must submit an application to USOE for approval.

At a minimum, the LEA application shall contain the following components:

1. General information
2. Budget information and categories
3. Assurances
4. Narrative
   - a. Introduction
   - b. Requirements
     - (1) General Program Description
     - (2) Full Educational Opportunity Goal
     - (3) Child Identification
     - (4) Parent Involvement
     - (5) Participation in Regular Education Programs
     - (6) Individualized Education Programs
     - (7) Confidentiality of Personally Identifiable Information
     - (8) Public Participation
     - (9) Personnel Development
     - (10) Supervision
     - (11) Private Schools
     - (12) Local or Regional Interagency Council
     - (13) Use of Part B Funds

5. Additional procedures and information which USOE may require in order to meet state plan requirements.

VI. B. Comprehensive System of Personnel Development (CSPD). Each public agency shall establish procedures for the development and implementation of a Comprehensive System of Personnel Development consistent with the provisions of Rule II.F. which shall include:

1. The continuing education of all regular and special education instructional, related services, leadership, and support personnel serving students with disabilities;

2. Procedures to insure that all personnel necessary to carry out the purposes of the IDEA-B and UCA 53A-15-301 of the Utah Code annotated are qualified as defined in 34 CFR 300.15 of the IDEA-B regulations, and the Utah State Plan for IDEA-B. Furthermore, each public agency shall ensure that the procedures and activities necessary to carry out the local Personnel Development Plan (see Rule VI.B.5 below) are scheduled;

3. Effective procedures for acquiring and disseminating to special and regular educators, related service providers, leadership and other personnel necessary to meet the needs of students with disabilities significant information derived from educational research, demonstration, and other sources;

4. Procedures for adopting, if appropriate, promising practices, materials, and technologies proven effective through research and demonstration; and,

5. The provision that each local education agency or consolidated application submitted for IDEA-B funds details a local Personnel Development Plan which must be annually updated and which:

   a. Reflects necessary components of the State-wide Personnel Development Plan (PDP) developed by USOE (see Rule II.F.);

   b. Delineates each of the procedures and activities identified in Rule VI.B. 1-4, noted above;

   c. Provides the information necessary for the USOE to meet the personnel data requirements contained in Rule II.F.9-11; and

   d. Consistent with the requirements of 34 CFR 300.224, ensures that:

      (1) an annual personnel needs assessment is conducted;

      (2) the results of the needs assessment are described, including the identification of areas of needed training -- with assigned priorities for those areas;

      (3) target populations for personnel development include regular education and special education instructional and leadership personnel, related

service providers, support personnel, and other personnel (such as paraprofessionals, parents, surrogate parents and volunteers); and

(4) the resources, both financial and programmatic, are identified for the implementation of the local Personnel Development Plan (PDP). Districts may cooperate in combining funds on a multi-district or regional basis to address areas of mutual personnel development (CSPD) need.

VI. C. Provision for Leadership. LEAs shall provide appropriate and specific full time or percent of FTE leadership service for coordination and supervision of special education programs, including instructional assistance to special education teachers. Leadership may be provided within the district, on a multi-district or regional basis, or on contracted arrangement. Appropriateness of personnel assigned will be assessed by the State Office of Education. Appropriateness is defined as an administrative/supervisory credential with an emphasis in special education. In addition, LEAs may select certain special educators to serve as "consulting or helping teachers" to other special education personnel.

VI. D. Provision for Diagnostic and Assessment Personnel. School districts or agencies shall provide appropriate and specific identification, diagnostic and evaluation services. Plans, procedures and budgeting for identification, diagnosis and evaluation of students with disabilities will be evaluated as to appropriateness by the State Office of Education.

VI. E. Funded Prevalence of Disabling Conditions. The State Board of Education shall limit a district's allocation of state special education monies to 12.18% of the district's average daily membership. Children three and four years of age and those children turning five after September 1st, classified as developmentally delayed, are not to be included in the district's 12.18% ADM maximum.

VI. F. Maximum Caseloads for Service Patterns. Local school district administration will oversee the caseload of each special educator (including psychologists, social workers, communication disorders specialists, occupational therapists, physical therapists, adaptive P.E. specialists, and any other related servers) taking into account the number of students, the hours of service per student, the pupil/teacher ratio during instruction, and the number of students with severe disabilities in the caseload.

1. At any given time, the teacher's active caseload (head count, not ADM) for the following RESOURCE services (less than 180 minutes per day for grades 1-12 or less than 90 minutes per day for grade K) shall not exceed:

Resource Room, two or more disabilities	35
Communication Disorders	60
Hearing Impairments	20
Visual Impairments	20

2. At any given time, the teacher's active caseload (head count, not ADM) for the following SELF-CONTAINED services (180 minutes per day or more, grades 1-12, 90 minutes per day or more, grade K) shall not exceed:

Intellectual Disabilities	15
Specific Learning Disabilities	15
Behavior Disorders	12
Communication Disorders	12
Deaf	12
Hearing Impairments	12
Orthopedic Impairments	12
Other Health Impairments	12
Visual Impairments	12
Autism (with 1 FTE Aide)	12
Dual Sensory Impairments (with 1 FTE Aide)	12
Multi-disabilities (with 1 FTE Aide)	12
Traumatic Brain Injuries (with 1 FTE Aide)	12

3. Developmental Delays (Preschool).

   a. At any given time the teacher's active caseload ratio during a preschool session (AM or PM) shall not exceed:

      (1) 5 students with disabilities
      6-10 students with disabilities with 1 FTE aide
      11-15 students with disabilities with 2 FTE aides

      (2) At **no time** may a preschool teacher's maximum caseload exceed 30 students with disabilities.

   b. In any given preschool session (AM or PM) there shall be no more than 15 students under the teacher's supervision consistent with the caseload ratio described in 3. a. (1) and (2) above. A preschool session consists of a morning and afternoon session, Monday through Friday, or any part thereof.

4. In any given instructional period, there shall be no more than eighteen (18) students under the teacher's supervision.

5. At any given time, the teacher's active caseload (head count, not ADM) for the Homebound/Hospitalized self-contained service option for students with disabilities shall not exceed fifteen (15).

6. Districts shall adhere to these maximum teacher caseloads. The maximums stated are not intended as minimums, or as goals or standards to achieve. Generally speaking, the younger the student and/or the greater the severity of the disability, the lower the adult/student ratio should be. For example, a teacher in a self-contained class for students with moderate intellectual disabilities could serve up to 15; if students have severe disabilities, the caseload should be no more than 12.

7. The addition of an aide into the classroom does not permit teacher caseload maximums to be exceeded.

8. A one year approval to exceed the maximum teacher caseload stated can only be secured subject to justification submitted in writing to the State Director of Special Education by the LEA (school district) special education administrator.

9. Self-contained Resource: The maximum caseload for resource teachers serving self-contained students (180 minutes per day or more, grades 1-12, 90 minutes or more per day, grade K) in the resource room shall follow Table A, page 120. A maximum of ten students in the self-contained service is allowable with five resource students, for a total of 15 students by head-count, self-contained and resource combined. District administration shall take care that caseload is reflected accordingly with variables as outlined in Rule VI.F.6 above.

VI. G. Certification Requirements. Any professional providing services to students with disabilities must have a certificate or credential in the area in which they provide services. This includes special education teachers, communication disorders specialists, psychologists, social workers, physical and occupational therapists, and other professionals. The district superintendent shall be responsible for the assessment of credentials when assigning staff members (see Appendix D for State Certification Requirements).

1. Teachers managing the IEPs of students with disabilities who need instruction in **core curriculum** based academic, behavior and life skill demands must hold a Special Education Certificate for teaching students with disabilities (K-12) with a mild/moderate endorsement. This requirement applies regardless of setting (resource or self-contained), or category of disability.

2. Teachers managing the IEPs of students with learning/behavior/adaptive deficits, who need instruction in **functional** academic, **functional** behavior, and **functional** life skill demands, must hold a Special Education Certificate for teaching students with disabilities (K-12) with a severe endorsement. This requirement applies regardless of setting (resource or self-contained), or category of disability.

3. Teachers providing service to the single categories of CD, HI, VI, must be endorsed in the category to be served.

4. Teachers assigned to teach academic subjects in secondary special education programs must, in addition to their basic or standard certificate to teach special education, obtain not fewer than nine (9) quarters hours of state approved college or inservice course work in each of the subject areas in which credit is awarded, or must meet the demonstrated competency requirement.

5. Teachers serving students identified as having a disability and receiving homebound or hospital instruction must be certificated as follows:.

   a. If the homebound/hospitalized student with disabilities was previously served in a resource setting, the teacher serving the student may have any regular or special education credential.

   b. If the homebound/hospitalized student with disabilities was served in a self-contained setting in the school, or if the home/hospital service is the placement

of choice for the student by IEP directive, the teacher serving the student must have the appropriate special education certification as described in #1 and #2 above.

6. Social workers and psychologists providing services to students with disabilities must be certified by the State Board of Education as a school social worker or school psychologist (see Appendix D for standards for certification of school social workers and psychologists), or hold Utah State licensure.

7. A new Preschool Special Education Certificate is issued to fulfill the highest qualified personnel standard required by P.L. 99-457. The new certificate will be required for teaching preschool students with disabilities. Teachers who hold an equivalent certificate from out of state will be required to meet the new Utah standards when renewing. All professional personnel teaching preschool and holding a special education endorsement or regular education early childhood endorsement will be required to complete a Utah State Office of Education/Institutions of Higher Education approved training program by June 30, 1995, which will allow them to be eligible for the new Preschool Special Education Certificate. This preservice/inservice training program and procedure is to be developed, based on an analysis of presently held certificates and endorsements, and training activities as compared to the new standards.

   a. Teachers serving preschool-aged students with disabilities must be certified. Acceptable certification, until June 1, 1995, includes present special education certificates or the regular education early childhood endorsement. A Preschool Special Education Certificate will be required by June 1, 1995.

   b. In addition, all SBE/SER pertaining to certification, including standards for psychological examiners, must be adhered to.

8. Individuals providing pyschological diagnostic services for students with disabilities must hold a Utah State credential for psychologists, state licensure, or be designated by the LEA superintendent as a psychological examiner, in accordance with standards described below. (see Appendix D for State Certification Requirements.)

STANDARDS FOR DETERMINING QUALIFICATIONS OF THE DESIGNATED PSYCHOLOGICAL EXAMINER:

   a. The LEA superintendent must have verification of course work and/or inservice training that qualifies such a person, holding at least a Bachelor's degree, to be designated a psychological examiner:

      (1) Course work or comparable training should include at least 18 semester hours (27 quarter hours) of sociology, psychology, social work, or educational psychology, for a person to be so designated.

(2) Competency in the administration, scoring, and interpretation of psychological and other individually-administered procedures should also be documented.

(3) A list of tests/procedures the designated psychological examiner is qualified to administer.

b. The local superintendent will specify in writing the names of those persons assigned as designated psychological examiners. The name, or list of names, will be submitted annually to the USOE, Teacher Certification Section, and Special Education Section.

c. The appropriateness of the assignment of the designated psychological examiner will be monitored annually by the single audit procedure or the Special Education PAR procedure.

TABLE A

MAXIMUM CASELOAD

FOR

SELF-CONTAINED/RESOURCE COMBINED OPTION

Categories Allowable:

All Categories, Depending
On Individual Student Needs,
As Determined By IEPs

Students Self-Contained in Resource Class (180 minutes per day or more, grades 1-12; 90 minutes per day or more, grade K)	Resource Students (Less than 180 minutes per day grades 1-12; less than 90 minutes per day, grade K)	Total Students (Head Count)
1	32	33
2	29	31
3	26	29
4	23	27
5	20	25
6	17	23
7	14	21
8	11	19
9	8	17
10 (max)	5	15

VII. FUNDING. Eligible reimbursable costs are those costs specified in these Rules. Such funds provide restricted (categorical) monies which must be spent for the education of students with disabilities. Each year, the School Finance Law states the total number of weighted pupil units and the corresponding dollar amount, creating a base for available State funds.

VII. A. Allocation of State Revenues for Programs for Students with Disabilities

Each district shall receive its allocation of monies appropriated for programs for students with disabilities as provided in this subsection.

1. The State Board of Education shall use the total number of special education weighted pupil units generated during fiscal year 1989-90 as a base for the appropriation.

2. Each district shall receive a foundation allocation based on its special education weighted pupil units for fiscal year 1989-90 as compared to the state's total special education weighted pupil units for that year.

3. If monies appropriated under this chapter for programs for students with disabilities do not meet the costs of districts for those programs, each district shall first receive the amount generated for each student with a disability under the basic program.

4. Funds allocated, but unspent, must be carried as a balance the following year.

5. Funds may be spent only for direct costs, as provided in these Rules.

   Direct costs are those elements of cost which can be easily, obviously, and conveniently identified with the specific Special Education activities or programs, as distinguished from those costs incurred for several different activities or programs and whose elements are not readily identifiable with specific Special Education activities.

6. Allowable Direct Costs for approved Programs for students with disabilities are as follows:

Object Codes:	115	Properly certificated personnel in direct supervision or coordination of special education programs.
	131	Properly certificated teachers who teach students in special education programs/services.
	132	Substitute teachers.
	141	Social workers who work directly with students in special education programs/services.
	143	Properly certificated health personnel who are assigned to work with students in special education programs/ services.

144 Properly certificated persons qualified as psychologists who are used in identifying, diagnosing, and evaluating students with disabilities, and in instructional or treatment services.

152 Secretarial personnel assigned to work directly with special education programs/services.

161 Teachers' aides and paraprofessionals (including bus aides).

162 Media aides.

SPECIAL NOTE: Personnel who are assigned to work directly with programs for students with disabilities on a part-time basis must have their salaries prorated accordingly from Special Education funds and other funds, and such must be documented.

240 Health and Accident Insurance - Certificated and classified personnel who are assigned to programs for students with disabilities (to be pro-rated, if part-time).

320 Contracted services and other costs for instructional programs which can be traced directly to special education programs/services without the need for pro-ration.

452 Rental of equipment for programs for students with disabilities.

580 Approved travel for personnel in conjunction with their assignments to special education programs/services.

610 Teaching supplies.

641 Textbooks

644

650 Instructional media/materials

660

730 Equipment for the special education programs/services.

Following are Examples of UNALLOWABLE Direct Costs:

	2300	Administration
	2700	Pupil transportation (provided under the transportation program).
Function Codes:	2600	Operation and maintenance of school plant.
		Exception: Telephone charges for the school may not be pro-rated to the special education program, even though the school placed an extension phone in the special education area. The special education department may be billed for telephone charges only if a separate direct line is provided to the special education area specifically.
	4000	Capital outlay, except for equipment for programs for students with disabilities.
Object Codes:	200	Employee Benefits except for Health Insurance as identified in object code 240, previous page (pro-rated if assignment is part-time).
	451	Rental of land and buildings
	520	Insurance
	800	Other Objects

7. **Indirect Costs are Unallowable:**

Indirect costs are those elements of cost necessary in the provision of a program which are of such nature that they cannot be readily or accurately identified with the specific Special Education service. For example, the custodial staff may clean corridors in a school building which is used jointly by administrative, instructional, maintenance, and attendance personnel. In this case, a part of custodial salaries is an indirect expense of each service using the corridors. However it is impossible to determine readily or accurately the amount of the salary to charge each of these services. The same is true of such supplies as paper towels or tissue, writing paper, etc.

8. **Personnel:**

Where personnel serve students with disabilities and are paid from special education program funds, their entire time must be spent with the students with disabilities. If the person has other responsibilities, that portion of the person's time devoted to

students with disabilities must be documented to show that the time spent in the program for students with disabilities and the proportional salary paid from special education funds are defensible.

9. **Contracted Services:**

Contracted services are rendered by personnel who are not on the payroll of the public agency. Funds expended for contracted services for students with disabilities are limited to those appropriate expenses authorized by the contract.

10. **General Funds:**

All cost of programs for students with disabilities borne by the district, which are not classified as direct costs will come from general funds of the district.

VII. B. Administrative Procedures for Determining Average Daily Membership.

1. For **self-contained** students in special education, "**membership**" means the number of students on the current roll of a class or school as of a given date. A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official withdrawal from the class or school because of completion, dismissal, death, transfer, or administrative withdrawal. The date of withdrawal is the date on which it is officially known that the student has left school for one of the above reasons and is not necessarily the first day after the date of last attendance. In no case may the date of withdrawal be longer than 10 days after the last day of attendance, except for reasons of sickness, hospitalization, pending court investigation or action, prior-approved trip, or earnest and persistent efforts to keep a student in school with services provided by the school district.

2. **Official Records.** To determine membership, school districts shall ensure that records of attendance are kept in each school which clearly and accurately show the entry date and exit date of each student and whether a student is absent from school ten consecutive school days. A minimum of one attendance check shall be made by the school each school day.

VII. C. Correlation of Reports. In order to assure accuracy, districts shall provide a procedure for program, financial and statistical personnel to coordinate and correlate information required by the State Office of Education. (Example: A count of students served as reported on the S-3 report must agree with the official attendance records maintained by the district.)

VII. D. Recovery of Funds for Misclassified Student. These Rules describe procedures for determining the disability condition and eligibility for special education services. A student with disabilities whose diagnostic record does not support or substantiate the classification of a disability condition, will be considered an erroneously classified student not eligible to be counted under the provisions of the state or federal requirements, or to receive federal or state funds.

An independent auditor shall be employed by each school district to audit its student accounting records annually and report the findings to the district Board of Education.

Reporting due dates and suggested forms and procedures are found in the Guidelines and Procedures for Conducting the Annual Statistical Audits of Fall Enrollment and Student Membership provided to school districts by the Utah State Office of Education.

The Utah State Office of Education shall review student membership and fall enrollment audits as they relate to the allocation of state funds. These audits will determine whether criteria established by the Utah State Board of Education Special Education Rules have been met by reviewing the required documentation of selected classified students. If a student is found to be misclassified, and federal and/or state expenditures have been made for direct or related service to that student, a notification of audit exception will be given to the district. Reimbursement for expenditures made on a student erroneously classified as having a disability will be made to the State Office of Education within ninety (90) days of notification of audit exception.

If a district disagrees with the findings of the independent auditor, a hearing may be requested by following the procedures outlined in these Rules (see Rule II.E.7, Allocation and Use of Part B Funds).

APPENDICES

APPENDIX A

REGULATIONS GOVERNING PLACEMENT OF ELIGIBLE STUDENTS WITH DISABILITIES IN PRIVATE RESIDENTIAL SCHOOLS

REGULATIONS GOVERNING PLACEMENT OF ELIGIBLE STUDENTS WITH DISABILITIES IN PRIVATE RESIDENTIAL SCHOOLS

I. INTRODUCTION

The development of these regulations confirms the commitment of the Utah State Board of Education to the education of every student with disabilities residing in the State of Utah. It is the purpose of these regulations to assure that all students with disabilities, served at public expense in private residential schools, have available to them a "Free Appropriate Public Education and Related Services" designed to meet their individual needs, to assure that the rights of students with disabilities and their parent(s) or guardian(s) are protected and to assist private residential schools in providing appropriate education and treatment in a safe, humane and nurturing environment. The implementation of these regulations will assure compliance with the provisions of P.L. 94-142 (as amended), 20 USC 1401 et seq and Section 504 of the Rehabilitation Act of 1973, 29 USC § 794 (hereinafter referred to as the "Acts" and Regulations promulgated thereunder at 34 CFR 104 and 34 CFR 300 hereinafter "Regulations"). [The definition of "school: in these regulations excludes institutions whose primary mission and function are to provide medical intervention and treatment.] ["Parent(s)" shall mean a natural parent or other adult authorized by law to act on behalf of an eligible student with disabilities.]

No private school in Utah shall be eligible to receive any Utah public funds for special education and related services provided eligible students with disabilities unless and until such facility is certified and placed on the approved list of private residential schools or institutions. These regulations prohibit the payment of any public funds for the education of eligible students with disabilities under the control of the State Education Agency or any Local Education Agency in the State of Utah until compliance with these regulations has been achieved and the private residential school is certified and placed on a list of eligible recipients.

After initial determination of eligibility, the Utah State Office of Education shall publish and disseminate to all Local Education Agencies within Utah and State Education Agencies within the United States, a complete list of certified private residential schools within the State of Utah which comply with these regulations.

II. REGULATIONS

A. Each eligible student with disabilities placed by a Utah public agency into a private residential school or who is supported by Utah public funds, shall be provided a "Free Appropriate Public Education and Related Services" as defined by the Acts and Regulations.

B. Each eligible student with disabilities enrolled in a private residential school shall be provided a safe, humane, and caring residential environment. As part of providing a safe and humane environment, each approved private residential school enrolling eligible students with disabilities shall:

1. prohibit corporal punishment, of all kinds, unless expressly permitted by state or federal statute or the Constitution of the United States;

2. administer stimulant, tranquilizing and psychotropic drugs to a student with disabilities only with the consent of the parent(s) or guardian(s) pursuant to a prescription of a licensed physician and administered by a person authorized by law and in compliance with the Utah Medical Practices Act;

3. comply with applicable health, fire, housing, and sanitation codes relating to such private residential schools;

4. limit the isolation of students with disabilities to those situations where the student is physically violent or dangerous to himself or others, or as allowed by State Board of Education "time out" procedures. Time out or isolation shall not be used for punishment;

5. require that any incident of corporal punishment, personal injury, or drug administration be entered into a central log maintained by the private residential school and made a part of the permanent record maintained on the student. Such entries must be subject to review as part of the Utah State Office of Education monitoring process;

6. refrain from modifying the individual education program of an eligible student with disabilities until a formal review of such program has been conducted in accordance with the requirements of 34 CFR 300.347.

C. The Utah State Office of Education shall establish and maintain a register of qualified persons to serve as a surrogate parent and shall appoint a surrogate parent from the register to serve the eligible student with disabilities whenever the parent is unavailable, not known or the student is a ward of the State as required by 34 CFR 300.514.

D. The private residential school shall conform to the privacy and confidentiality requirements required of public agencies serving the disabled in accordance with 34 CFR 300.560-575. The right of the parent(s) or guardian(s) to inspect the educational records of their student shall not be denied nor restricted. The private residential school shall establish appropriate procedures for the granting of a request by the parent(s) or guardian(s) for access to the education records of their student within a reasonable period; but in no case, more than forty-five (45) days after the request has been made.

E. Upon enrollment of any eligible student with disabilities in a private residential school, such school shall, within ten (10) days, give written notice to the Utah State Office of Education, Special Education Section, of the name and age of the student and the name and address of the student's parents and school district or other agency referring or enrolling the student.

F. Each eligible student with disabilities enrolled in a private residential school shall be provided the full civil and political rights and liberties required by the Constitution of the United States, the Constitution of the State of Utah and as required by State law and the Acts and Regulations.

G Each eligible student with disabilities enrolled in a private residential school shall be afforded free and open access to parent(s) and attorneys and reasonable access to other appropriate persons.

1. Each eligible student with disabilities enrolled in a private residential school shall have unlimited and unrestrained opportunity to send mail to such persons or institutions as may be desired except that the parent(s) or legal guardian(s) of an eligible student with disabilities may submit a list of persons from whom the student may not receive mail. In those instances where mail is received from persons on said list, the private residential school shall return the mail to the sender unopened.

2. The private residential school may check all incoming mail for the existence of contraband, but may not read or censor such mail.

H. Private residential schools are prohibited from using polygraph tests with eligible students with disabilities.

III. MONITORING AND COMPLIANCE

The Utah State Office of Education, after initial determination of compliance with these regulations and certifications, will conduct a yearly review of continuing compliance status in each private residential school subject to these regulations. The process to ensure compliance will be the Program Administrative Review (PAR) used by the Utah State Office of Education, Special Education staff, to monitor school districts' compliance with P.L. 94-142 (as amended). This process will ensure that the private residential school meets the same standards that apply to the public schools of the State of Utah for providing a free appropriate education to eligible students with disabilities.

Each certified private residential school shall prepare and submit to the Utah State Office of Education, an annual statement of compliance, and compliance shall be subject to periodic (not less than annual) monitoring and review by the Utah State Office of Education, with additional unannounced "drop in" monitoring to ensure compliance and remediation of deficiencies.

Monitoring will include:

1. review to determine compliance with the individual education program of each student;

2. review of provision for appropriate vocational education for any student whose long range educational goal is not a regular academic diploma, as determined by the Individualized Education Program team;

3. compliance with Utah State and Federal regulations relating to special education, "time out", teacher certification, etc.;

4. review of the requirements for the placement and referral of students with disabilities in the least restrictive alternative environment, including the

least restrictive alternative environment within the private residential school as required by the regulations.

5. review of procedures to protect the civil rights and political liberties of eligible students with disabilities as required by the Acts and Regulations thereunder.

The monitoring of private residential schools shall include provisions for personal interviews of students with disabilities, either at the request of such students, or on the independent judgment of those employees of the Utah State Office of Education conducting the monitoring, such interviews to be held outside the presence of any and all institutional personnel, employees, agents, or attorneys.

Within thirty (30) working days of the conclusion of the monitoring visit, the Utah State Office of Education will prepare a written monitoring report which shall be treated by the Utah State Office of Education as "public data" as defined by the Utah Information Practices Act, with the provisions that all personally identifiable information pertaining to students with disabilities enrolled in a private residential school or institution shall be deleted.

IV. GRIEVANCE

Within sixty (60) days of the filing of a complaint in writing to the Utah State Office of Education by an interested person alleging a violation of any standard or regulation, the Utah State Office of Education shall re-examine the compliance determination and take any steps necessary to determine the validity of such complaint and a written report of the findings regarding the complaint shall be made.

APPENDIX B

VOCATIONAL REHABILITATION SERVICES

VOCATIONAL REHABILITATION SERVICES

INTRODUCTION

The Utah State Board of Education/State Board Applied Technology Education is designated by Utah law as the single state agency responsible for the administration, supervision, and delivery of the state program for rehabilitation services. By this authority and through its chief executive officer, the Board administers the Utah State Office of Rehabilitation.

One of the major programs under this office is the Vocational Rehabilitation Program.

MISSION STATEMENT

To assist eligible individuals with disabilities in preparing for and obtaining employment.

ELIGIBILITY

Eligibility for vocational rehabilitation services depends upon the individual having, (A) a physical or mental impairment which results in a substantial impediment to employment and, (B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

REHABILITATION PROCESS

- The school refers the student to a rehabilitation counselor.
  The Counselor:
- Explains program to student and/or parents.
- Obtains application and needed diagnostic information.
- Determines eligibility or refers to other appropriate services.
- If eligible, develops an individualized written rehabilitation program (IWRP), based on individual needs.
- Works with appropriate school staff and community services to accomplish IWRP goals.
- Assists the individual in obtaining job placement.

EXAMPLES OF SERVICE

- Diagnostic and evaluation procedures
- Counseling and guidance
- Medical, surgical, therapeutic care and treatment
- Education and training
- Prosthetic appliances and devices
- Transportation
- Other goods and services in support of IWRP goals
- Job placement and follow-up

VOCATIONAL REHABILITATION OFFICES

(See Listing Page B-4)

TRANSITION

Authority [P.L. 102-569, Sec. 101 (a)(24)].

The Division of Rehabilitation Services (DRS) has always supported the concept of transition from school to employment. Special efforts are made to maintain relationships between DRS and educational and training institutions in cooperative programming for students (clients) with disabilities. Cooperative agreements have been developed and liaison personnel assigned to the major institutions identified as having educational responsibilities, including every high school in the state.

Our goal is to provide individuals with disabilities optimum transition opportunities in a timely manner from education to work and to assure an active outreach effort.

The division plans to:

1. Revise and/or update existing cooperative agreements with each of the forty (40) public school districts in Utah (see example, Cooperative Agreement Page C-5).

2. Assign a rehabilitation counselor as liaison to each secondary school located in their area to work with special education teachers in expanding efforts to enhance the transition process for students/clients.

3. Schedule and provide orientation sessions with special education teachers regarding available rehabilitation services and implement cooperative agreements, with emphasis placed on early identification and involvement with IEP/IWRP planning and coordination.

4. The rehabilitation counselor will be available as a consultant and resource person for the development of school plans for students with disabilities that involve transition.

5. Provide a setting in which local problems and/or needs in serving students with disabilities can be identified and solved through the participation and cooperation of the student/client, parent, education, rehabilitation and other related agencies.

REHABILITATION OFFICE LOCATIONS

UTAH STATE OFFICE OF REHABILITATION
DIVISION OF REHABILITATION SERVICES

250 East 500 South - Salt Lake City, Utah 84111
(801) 538-7530 Voice/TDD

DISTRICT OFFICES

NORTHERN UTAH DISTRICT
150 North Washington Blvd.
Ogden, Utah 84404
(801)621-4672/1-(800)560-4672
Voice/TDD

BRIGHAM CITY OFFICE
695 South Main, Suite #4
Brigham City, Utah 84302
(801)734-9408/1-(800)559-9408
Voice/TDD

LOGAN OFFICE
270 - 1/2 North Main
Logan, Utah 84321/3915
(801)752-9766/1-(800)560-9677
Voice/TDD

OGDEN DISTRICT OFFICE
856 - 24th Street
Ogden, Utah 84401
(801)399-9231 Voice/TDD

FARMINGTON OFFICE
40 North 100 East
Farmington, Utah 84025
(801)451-9449 Voice/TDD

LAYTON OFFICE
1598 North 400 West, Suite F
Layton, Utah 84041
(801)776-5951 Voice/TDD

SALT LAKE DOWNTOWN DISTRICT
180 South 300 West, Suite 100
Salt Lake City, Utah 84101
(801)533-5165
Voice/TDD

ARBOR PLAZA OFFICE
1574 West 1700 South, #1A
Salt Lake City, Utah 84104
(801)533-5448
Voice/TDD

UNIVERSITY OF UTAH OFFICE
160 Union Building
Salt Lake City, Utah 84112
(801)581-8955
Voice/TDD

INDUSTRIAL COMMISSION OFFICE
160 East 300 South
Salt Lake City, Utah 84110-5800
(801)530-6837 Voice/TDD

CENTRAL SALT LAKE DISTRICT
638 E. Wilmington Avenue
Salt Lake City, Utah 84106
(801)533-5975 Voice/TDD

SOUTH SALT LAKE DISTRICT
5020 South State Street
Salt Lake City, Utah 84107
(801)533-5291 Voice
(801)533-5297 TDD

TOOELE OFFICE
154 South Main
Tooele, Utah 84074
(801)882-1086/1-(800)734-1086
Voice/TDD

PROVO DISTRICT OFFICE
150 East Center, Suite 3300
Provo, Utah 84606
(801)374-7724
Voice/TDD

EASTERN UTAH DISTRICT
662 West Price River Drive
Price, Utah 84501
(801)637-7734/1-(800)637-7734
Voice/TDD

VERNAL OFFICE
1680 West Hwy 40, #106 D (58-11)
Vernal, Utah 84078
(801)789-0273/1-(800)531-9912
Voice/TDD

BLANDING OFFICE
202 North Main Street
Blanding, Utah 84511
(801)678-2511/1-(801)531-9912
Voice/TDD

REHABILITATION SERVICES CENTER
660 South 200 East, Suite 440
Salt Lake City, Utah 84111
(801)533-6999/1-(800)759-8824
Voice/TDD

SOUTHERN UTAH DISTRICT
411 South Main
Cedar City, Utah 84721
(801)586-9995/1-(800)281-9945
Voice/TDD

DELTA OFFICE
520 East Topaz Blvd., #107
Delta, Utah 84624
(801)864-2509/1-(800)531-9914
Voice/TDD

RICHFIELD OFFICE
201 East 500 North
Richfield, Utah 84701
(801)896-6479/1-(800)953-6479
Voice/TDD

ST. GEORGE OFFICE
301 East Tabernacle, #203
St. George, Utah 84770
(801)673-5091/1-(800)281-5091
Voice/TDD

MANTI OFFICE
50 South Main, #21
Manti, Utah 84642
(801)835-3331/1-(800)531-9913
Voice/TDD

VOCATIONAL EVALUATION SERVICE
1603 West 500 South
Salt Lake City, Utah 84104
(801)533-4420
Voice/TDD

COOPERATIVE AGREEMENT

between the

Division of Rehabilitation Services
Utah State Office of Rehabilitation

and the

_____ School District

STATEMENT OF PHILOSOPHY AND PURPOSE

The purpose of this Cooperative Agreement is to implement and strengthen a transitional planning process that will assist individuals with disabilities to move from education to community services and/or employment. In support of this purpose, this Cooperative Agreement is entered into between the Utah State Division of Rehabilitation Services and the _____ School District.

ROLE AND FUNCTION OF EACH ORGANIZATION

1. Division of Rehabilitation Services: DRS is the public agency primarily responsible to provide vocational rehabilitation services for individuals with disabilities. Basic services and responsibilities to the schools include:

   a. Act as an information and referral source and determine the eligibility of students with disabilities for vocational rehabilitation services.

   b. Provide consultation to the schools regarding vocational rehabilitation services, transitional planning, environmental and architectural barriers, and special needs of the students with disabilities to include: medical, psychological, vocational, and educational.

   c. Assign the vocational rehabilitation counselor as a team member to help develop the eligible students' Individual Education Plan (IEP) and the Division of Rehabilitations' Individual Written Rehabilitation Program (IWRP).

   d. Select eligible students with disabilities for work evaluation/work adjustment and work training programs.

   e. Provide such support services as needed to assure that eligible students with disabilities approaching an employable age are adequately prepared to bridge the gap between the public schools and employment.

   f. Assign a vocational rehabilitation employee to serve on a staff management basis to the local high school district to help coordinate services for students with disabilities. This person(s) will appear on the high school and school district organizational chart.

2. _____ High School

a. Aid in information and referral services of potential students with disabilities.

b. Formalize liaison personnel on school district organizational charts.

c. Make available individual student records who have been referred or who are participating in the vocational rehabilitation program.

d. Make available medical, psychological, social or vocational tests and/or reports of students who have been referred or who are participating in the vocational rehabilitation program.

e. Aid in the orienting and education of parents, teachers, students and school support staff of available services.

f. Assign a school employee to serve on a staff management basis to the local vocational rehabilitation organization to help coordinate services for students with disabilities. This person(s) will appear on the rehabilitation organizational chart.

g. The school will assign a representative from Vocational Education, Special Education, and other appropriate areas, to be members of the student's IEP/IWRP team as needed.

JOINT RESPONSIBILITIES

1. Each organization has the responsibility for interpreting, not only its own programs to the local community, but also for clarifying relationships between the organizations in this agreement and in areas of responsibility for serving individuals with disabilities.

2. Both organizations shall observe the proprietary right of students in releasing confidential information and only that type of information which seems pertinent to the rehabilitation of a student shall be divulged. Any confidential information exchanges between organizations must be kept in strict confidence. Stipulations of the Federal Privacy Act/GRAMA shall be observed.

3. Parties to this agreement shall comply with Title VI of the 1964 Civil Rights Act. No person shall be excluded from participation, denied any benefits or services, or subjected to discrimination on the basis of race, color, sex, national origin, or disability.

4. Periodic evaluations will be conducted by appointed representatives of each organization as to the adequacy of procedures, number of student referrals, exchange of information and other specifics on which to determine the effectiveness of cooperative efforts and to recommend improvements in the working relationships between the two organizations.

5. This agreement adheres to the Utah State Office of Education policy, that all students with disabilities be provided a free appropriate education and other necessary related services so that they can develop to their maximum potential as productive and contributing members of society.

Representing Utah State Office of Education	Representing School District
Representing Division of Rehabilitation Services	Representing High School
Representing Local Rehabilitation Services District Office	
Date	Date

APPENDIX C

THE ELEMENTARY AND SECONDARY PROGRAM OF STUDIES AND HIGH SCHOOL GRADUATION REQUIREMENTS

Several changes made to this rule are scheduled to become effective August 2, 1993

R277. Education, Administration.
R277-700. The Elementary and Secondary School Core Curriculum and High School Graduation Requirements.
R277-700-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "IEP" means individual education program.

C. "Special assignment teacher" means a teacher assigned to:

(1) alternative school settings with self-contained classrooms in which the teacher must teach several subjects;

(2) teach homebound students with the expectation that several subjects will be covered by the same teacher; or

(3) necessarily existent small or rural schools with limited faculty and enrollment in which teachers must teach more than three core subjects.

R277-700-2. Authority and Purpose.

A. This rule is authorized under Article X, Section 3 of the Utah State Constitution which vests general control and supervision of the public education system in the State Board of Education, Section 53A-1-402(1)(b), U.C.A. 1953, which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements, and Section 53A-1-401(3), U.C.A. 1953, which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify the minimum core curriculum for the public schools and high school graduation requirements.

R277-700-3. General Requirements - Course Standards.

The Board establishes minimum course description standards and objectives for each course in the required general core, which is commonly referred to as The Core Curriculum. Course descriptions for required and elective courses are developed cooperatively by local school districts and the Utah State Office of Education. The descriptions shall contain mastery criteria for the course and shall stress mastery of the criteria rather than completion of predetermined time allotments for subjects. Implementation and assessment procedures are the responsibility of local school districts.

R277-700-4. General Requirements - Teacher Qualifications.

Teachers may not be assigned to teach any course unless, for the subject area to which they are assigned, they hold a current Utah teaching certificate endorsed in the subject area, have completed an undergraduate or graduate major or minor in the subject area, have completed a Board approved inservice program, or have demonstrated competency in the subject area.

R277-700-5. General Requirements - Special Assignment Teachers.

A. Special assignment teachers must hold a Basic or Standard Certificate with endorsement(s) for the course(s) which they are assigned to teach. In addition, personnel must have completed at least nine quarter hours of state approved college or inservice course work in each of the subject areas in which they are assigned.

B. Special assignment teachers are temporarily authorized for the duration of their special assignment and do not receive a permanent endorsement for the subject area until they have completed the equivalent of a subject matter minor, at least 24 quarter hours of state approved college coursework in the field, or have been declared competent to teach the subject by the Utah State Office of Education Committee on Demonstrated Competency.

R277-700-6. General Requirements - Unit of Credit.

A. A unit of credit or fraction thereof shall be given upon satisfactory completion of a course or learning experience in compliance with state course standards. Students also may complete a course on a performance basis in which case assessment of mastery will be the responsibility of the local boards of

education. Credit can be awarded only once for a specific required course with the same content during the secondary school experience.

B. Credit may be earned in any of the following ways:

(1) successful completion of a course;
(2) demonstrated proficiency, via preassessment;
(3) demonstrated mastery of approved courses outside of the school day or year;
(4) concurrent enrollment in approved post-secondary training institutions;
(5) demonstrated mastery of approved correspondence or extension courses; or
(6) upon application, demonstrated mastery in special experimental programs.

R277-700-7. General Requirements - Instructional Time.

School districts shall organize flexible time blocks for instruction which accommodate outcome-based curriculum. To help the Board keep apprised of instructional time variations, districts shall submit their instructional time schedule to the Utah State Office of Education for approval.

R277-700-8. General Requirements - Student Education Plan.

A student education plan is cooperatively developed by the student, the student's parents, and designated school personnel. This plan is guided by general requirements and individual student interests and goals. It is formally reviewed, at least, at the beginning of grade one, at the end of grades three and six, and annually thereafter. Each student's high school plan shall identify an area of concentration, which may be as many as four to five units, in a cluster related to the student's post-secondary goal.

R277-700-9. General Requirements - Diploma.

In Utah's public schools, a high school diploma is granted to a student who has met Board curriculum requirements and any additional requirements of the local school district.

R277-700-10. Requirements for Elementary Education.

A. The Board shall establish standards for elementary education which include the identification of a general core curriculum. Implementation and formal assessment of student mastery of the general core curriculum are the responsibilities of the local boards of education. At a minimum, formal assessment shall occur during or at the completion of the primary grades, grade three, and again during or at the completion of the intermediate grades, grade six. Informal assessment should occur on a frequent ongoing basis to ensure continual student progress. Provision for remediation for all students who do not achieve mastery is required.

B. Required Elementary Core Curriculum:

TABLE

REQUIRED ELEMENTARY CORE CURRICULUM
GRADES K-6

GENERAL CORE		OPTIONS
LANGUAGE ARTS	SOCIAL STUDIES	FOREIGN LANGUAGE
Reading	Introductory Citizenship	
Writing	Principles and Practices	
Speaking		
Listening	ARTS	
MATHEMATICS	RESPONSIBLE HEALTHY LIFESTYLES	
SCIENCE	INFORMATION TECHNOLOGY	
LIBRARY MEDIA		

C. All handicapped students are required to demonstrate mastery of the core curriculum. If a

student's handicapping condition precludes the successful demonstration of mastery, the IEP team, on a case by case basis, may exempt the student or modify the mastery demonstration to accommodate the student's handicap.

R277-700-11. Middle and High School Requirements.

A. The Board provides general direction and standards in secondary education. Students in grades seven and eight must earn a minimum of 12 units of credit. Students in grades nine through twelve must earn a minimum of 24 units of credit. Districts may require additional units of credit. Formal assessment of student mastery of the general core courses shall occur as a minimum during or at the completion of grades eight, ten, and twelve. Implementation and assessment of student mastery of the core courses are the responsibility of the local board.

B. Middle Education Core Curriculum:

TABLE

MIDDLE EDUCATION CORE CURRICULUM
GRADES 7-8 12 UNITS OF CREDIT REQUIRED

GENERAL CORE - 10.5 Units PLUS REQUIRED ELECTIVES 1.5

SUBJECT AREAS	REQUIREMENTS
Language Arts	2.0 LOCAL DISTRICT OPTION
Mathematics	2.0
Science	1.5
Social Studies	1.5
The Arts	1.0
Information Technology	Credit Optional
Responsible Healthy Lifestyles	1.5
Applied Technology Education Technology, Life and Careers	1.0
Library Media Skills	Integrated into Subject Areas

C. High School Core Curriculum:

(1) Required credits:

TABLE

HIGH SCHOOL CORE CURRICULUM
GRADES 9-12 24 UNITS OF CREDIT REQUIRED

GENERAL CORE - 14.5 Units PLUS REQUIRED ELECTIVES 9.5

SUBJECT AREAS	REQUIREMENTS
Language Arts	3.0
Mathematics	2.0
Science	2.0
Information Technology	Credit Optional
Social Studies	3.0
Arts	1.5
Responsible Healthy	2.0

Lifestyles
Applied Technology Education 1.0
Occupational
Preparation
Library Media Skills Integrated into Subject Areas
SELECTED ELECTIVES 9.5

(2) Any state-approved applied technology course, or the applied technology core course fulfills the applied technology education requirement.

(3) Selected electives units of credit provide a means for specialization related to student interest and post secondary goals.

(a) College Entry Cluster:
Foreign Language: 2.0 units of credit
Mathematics: 1.0 units of credit
English: 1.0 units of credit
Science: 1.0 units of credit
Electives: 4.5 units of credit

(b) Applied Technology/Job Entry Clusters:
Select one:
Technical Emphasis: 4.0 units of credit
Vocational Emphasis: 5.0 units of credit
Computer Science: .5 units of credit

(c) Electives: 4.0 - 5.0 units of credit

D. Informational Technology standards in the Middle Education and High School core curriculum may be taught either by integrating them into other areas of the curriculum or in a specific class. Integration requires the district to submit a plan detailing at what level and in which class each standard will be taught. Districts establishing a specific class may offer .5 units of credit.

E. All handicapped students are required to demonstrate mastery of the courses in the Middle Education and High School general core. If a student's handicapping condition precludes the successful demonstration of mastery, the IEP team, on a case by case basis, may exempt the student or modify the mastery demonstration to accommodate the student's handicap.

KEY: curricula
1987 **Art X Sec 3**
Notice of Continuation 1993 **53A-1-402(1)(b)**
53A-1-401(3)

APPENDIX D

STATE

CERTIFICATION ENDORSEMENTS:

SPECIAL EDUCATION
SCHOOL COUNSELOR
SCHOOL PSYCHOLOGIST
SCHOOL SOCIAL WORKER

UTAH STATE OFFICE OF EDUCATION
TEACHER CERTIFICATION
250 East 500 South
Salt Lake City, Utah 84111

CERTIFICATION REQUIREMENTS FOR EARLY CHILDHOOD, ELEMENTARY, SECONDARY, SPECIAL EDUCATION, COMMUNICATION DISORDERS, AND PRESCHOOL SPECIAL EDUCATION

Revised 7/1/93

DEFINITION OF TERMS

1. Basic Certificate: Initial certificate issued for four years by the Board which permits the holder to be employed in the public school system as an educator.

2. Standard Certificate: A certificate issued by the Board after a holder has demonstrated competence under the Basic Certificate.

Teaching certificates do not cover professional services for which special certificates/endorsements are required.

REQUIREMENT STANDARDS

Each Basic Certificate is issued for four years and is non-renewable, except that an employing Utah local school district may recommend a one-year extension. Upon completion of two years of successful, professional growth and teaching experience, a continuing certificate called a Standard Certificate may be issued. A recommendation from the employing school district is required for this certificate.

The Standard Teaching Certificate is valid until and unless revoked for cause by the Utah State Board of Education providing the holder verified appropriate employment in education of at least three years during each succeeding five-year interval. Otherwise, the certificate must be renewed in accordance with the Requirement Standards for Revalidation and Renewal of Certificates. Teaching certificates do not cover professional services for which special certificates/endorsements are required.

If more than five years have elapsed since receiving the bachelor's or higher degree, the applicant must verify at least three years of appropriate employment in education or complete at least nine quarter hours (six semester hours) of approved credit within the five-year period prior to the date of application.

1. Basic Teaching Certificate: An applicant for the Basic Early Childhood, Elementary, Secondary, Special Education, Communication Disorders, or Preschool Special Education Certificate must have:

   a. graduated with a bachelor's degree from an accredited institution.

b. completed an approved program for the preparation of early childhood, elementary, secondary, preschool special education, or special education teachers, or communication disorders specialists which has met the Standards for program approval adopted by the Utah State Board of Education.

(1) An Early Childhood Education Certificate is required for teaching kindergarten and permits assignment in kindergarten through grade three; it is recommended for those teaching in formal programs below kindergarten level.

An alternative policy was adopted in 1986 which permits elementary certificated teachers who have been hired to teach kindergarten to qualify for an early childhood certificate. The provisions of the alternative policy are as follows:

(a) The candidate for early childhood certification shall hold a Standard Elementary Certificate and have been employed to teach kindergarten by a school district.

(b) The district will seek a letter of authorization for the individual assigned to a kindergarten position.

(c) The candidate must complete an approved program of early childhood education at an accredited institution of higher education. (An approved program may include district inservice.) This program will consist of not more than 10 semester hours (15 quarter hours) of credit and may be based on demonstrated competence on the part of the candidate. Practicum experience should, as far as possible, be in the regularly assigned kindergarten classroom of the candidate for early childhood certification extension.

(2) An Elementary Teaching Certificate is valid in grades one through eight. The 1-8 certificate permits a teacher to teach any academic area in self-contained classes in grades 1-6. The teacher, however, must be subject specific endorsed to teach assigned subjects at the 7-8 grade level.

(a) If the individual is an applicant for the Basic Elementary Teaching Certificate as well as the Basic Early Childhood Education Certificate, he/she must have appropriate course work and laboratory experience or otherwise demonstrate those competencies prescribed for prospective intermediate grade teachers that provide greater depth in academic subjects to be taught.

(b) A Basic Early Childhood Education Certificate may also be issued to an applicant who holds or is eligible to hold a Basic or Standard Elementary Teaching Certificate and who has completed two years teaching a full kindergarten or pre-kindergarten program. The Early Childhood Education Certificate will be issued to run concurrently with the Elementary Teaching Certificate.

(3) The Middle Level Certificates (5-9) currently in force will continue to be valid; however, a Middle Level Certificate (5-9) will no longer be required of teachers assigned to the middle school.

(4) A Secondary Teaching Certificate with subject endorsement(s) is valid in grades six through twelve. The 6-12 certificate requires a major and minor, or composite major, but the teacher cannot teach in an elementary self-contained class.

Secondary teaching candidates must have completed an approved teaching major and minor, or composite major, consistent with subjects taught in Utah secondary schools. The certificate will be endorsed for all subjects in which the candidate has at least a minor or has completed equivalent training, or has demonstrated competence in the subject(s) in accordance with criteria established by the State Board of Education.

- A teaching major as required for state certification includes not fewer than 30 semester hours or 45 quarter hours of credit in one subject. At least one-half must be in upper division work.

- A minor includes not fewer than 16 semester hours or 24 quarter hours of credit in one subject.

- A composite major includes not fewer than 46 semester hours or 69 quarter hours of credit, distributed in two or more related subjects.

(5) A special Education Certificate for teaching students with disabilities (K-12) is issued by the Utah State Board of Education with endorsements in the following areas:

- Mild/Moderate - permits the holder to teach students with mild/moderate learning and behavior problems.

- Severe - permits the holder to teach students with severe learning and behavior problems.

- Hearing Impaired - permits the holder to teach students who are deaf or hearing impaired.

- Visually Impaired - permits the holder to teach students who are blind or visually impaired.

Special Education teaching candidates shall have completed an approved program for teaching students with mild/moderate, severe, hearing, or visual impairments. The certificate will be endorsed for the area(s) in which the program is completed.

(6) A Communication Disorders Certificate is issued by the State Board of Education for teaching students with communication disorders. The teacher may be endorsed in either speech/language pathology or audiology or both. This certificate/ endorsement permits service at the elementary and/or secondary level (K-12).

(a) Communication Disorders certification candidates shall have completed an approved program for teaching students with communication disorders which shall have included the master's degree or 55 quarter hours earned after meeting requirements for a bachelor's degree, and which shall have met the standards for program approval adopted by the State Board of Education.

(b) A Provisional Communication Disorders Certificate may be issued to a candidate who has:

1) Completed an approved bachelor's degree program in communication disorders at an accredited institution, including a practicum experience in a school setting;

2) Acquired the competencies necessary for assignment as a Communication Disorders Specialist at job entry level with any limitations noted by the preparing institution;

Under the bachelor's degree program option, a Provisional Communication Disorders Certificate may be issued for two years. The candidate must be admitted to an accredited graduate program. Continued validity during this period of time will be contingent upon the candidate's filing with the State Office of Education evidence of completion of at least nine quarter hours (six semester hours) of credit each year which is applicable to the acquisition of a master's degree or equivalent in Communication Disorders. After five years, the Provisional Communication Disorders Certificate may no longer be reissued, and the candidate must qualify for a Standard Communication Disorders Certificate.

(7) A new Preschool Special Education Certificate is issued to fulfill the highest qualified personnel standard required by PL 99-457. The new certificate will be required for teaching preschool students with disabilities. All new applicants for Preschool Special Education Certificates must meet the new standards by June 30, 1995.

Preschool Special Education teaching candidates shall have completed an approved program which addresses newly adopted early childhood disabilities and special education endorsement competencies.

Teachers, who hold an equivalent certificate from out of state, will be required to meet the new standards when renewing. All professional personnel currently teaching preschool and holding a special education endorsement or regular education early childhood endorsement will be required to complete a Utah State Office of Education approved training program by June 30, 1995, which will allow them to be eligible for the new Preschool Special Education Certificate. This

training program and procedure is to be developed, based on an analysis of presently held certificate endorsements, teaching experience, and training activities as compared to the new standards.

c. Been recommended by an institution that has a State Board of Education-approved preparation program.

2. Standard Teaching Certificate

An applicant for the Standard Early Childhood, Elementary, Secondary, Special Education, Communication Disorders, or Preschool Special Education Certificate must have:

a. Completed at least two years of successful teaching experience under a Basic Teaching Certificate or its equivalent.

b. Been recommended by the employing school district with input from a teacher education institution.

REQUIREMENTS FOR EARLY CHILDHOOD, ELEMENTARY
MIDDLE, SECONDARY, SPECIAL EDUCATION, AND
COMMUNICATION DISORDERS CERTIFICATES

STANDARDS FOR THE APPROVAL OF PROGRAMS FOR THE PREPARATION OF EARLY CHILDHOOD, ELEMENTARY, MIDDLE SECONDARY, AND SPECIAL EDUCATION TEACHERS AND COMMUNICATION DISORDERS SPECIALISTS

A. PROFESSIONAL EDUCATION

The professional sequence is made up of elements which contribute directly to the prospective teacher's skill in guiding student learning. The practices and theories of the teaching/learning process have a direct relationship to the other components of a teacher education program--general education and the area(s) of teaching specializations. Through a discrete area, professional education is based upon knowledge, attitudes, abilities, and skills developed in the study of general education and the area(s) of content specialization.

The beginning teacher shall have completed a program that provides for the development of insights into child and adolescent psychology; the teaching/learning process; the social interactive process of the classroom, school, and community; the methods and materials of instruction; and the broader problems of the profession as they relate to society and the function of the school.

STANDARD I The program shall require experiences to develop knowledge, skills, and attitudes in the prospective teacher which will enhance student self-esteem and confidence and promote constructive interaction among people of differing economic, social, racial, ethnic, and religious backgrounds.

STANDARD II The program shall require study of general principles of livelong human growth and development and the relationship of teaching and learning theories to physical, social, intellectual, and emotional development.

STANDARD III The program shall require study of research about teacher characteristics and behaviors as they affect the learner.

STANDARD IV The program shall require study of the communication processes and skills for use between the teacher and student and between the teacher and others.

STANDARD V The program shall require study of techniques for diagnosing the capabilities of the learner and for designing instructional programs for all students in the least restrictive environment.

STANDARD VI The program shall require study of the application of methods and techniques in a clinical setting in the particular field of specialization.

STANDARD VII The program shall require study of methods of teaching reading in the prospective teacher's area(s) of specialization.

STANDARD VIII The program shall require study of skills and strategies to be used in classroom management of individual, small, and large groups under varying conditions.

STANDARD IX The program shall require prospective teachers to observe and analyze a variety of teaching models and to assess their own teaching effectiveness and professional growth needs.

STANDARD X The program shall require study of the leaders, ideas, and movements underlying the development and organization of education in the United States.

STANDARD XI The program shall require study of the state laws and State Board of Education policies which specify content, values, and other expectations of teachers and other professionals in the school system.

STANDARD XII The program shall require study of techniques for evaluating student progress, including the use and interpretation of both standardized and teacher-made tests.

STANDARD XIII The program shall require study of the knowledge and skills designed to meet the needs of students with disabilities in the regular classroom. These shall include, but not be limited to, the following content domains: (1) knowledge of disabilities, (2) knowledge of the role of regular education teachers in the education of students with disabilities, (3) skills in assessing the educational needs and progress of students with disabilities in the regular education classroom, (4) skills in the implementation of an educational program for the students with disabilities in the regular classroom, and (5) skills in monitoring student progress.

B. EARLY CHILDHOOD/ELEMENTARY SPECIALIZATION

The following standards pertain to programs preparing teachers both for early childhood and elementary school settings. These standards address the commonalities of content and skills which are important for teachers in both early childhood and elementary education. (Adopted 6-23-82.)

REQUIREMENTS FOR EARLY CHILDHOOD, ELEMENTARY
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These standards are to be used according to the specific age and/or grade levels for which the program of preparation has been designed. Therefore, the standards have been developed to reflect preparation for working with children ages 0-1, 2-3, and organizational settings of N-K grades 1-3, 4-6, and 4-8. If a program is designed to prepare teachers for one or more of these ages and/or grade levels, the standards must be applied according to the appropriate developmental stage of the children to be taught.

Traditional majors in a single academic discipline are frequently too narrow to serve as a basis for the specialized preparation of early childhood and elementary teachers. Rather, these preparatory programs should relate to the nature and amount of subject matter and the institution's general education requirements to the age or grade level for which the early childhood and elementary students are being prepared. Provision should be made to diagnose the prospective teacher's background in the content areas so that study will serve as a basis to strengthen the preparation needed.

STANDARD I The program shall require the study of child development from birth to adolescence with emphasis upon the implications of the learning process of these ages.

STANDARD II The program shall require the study of psychological and sociological concepts and generalizations dealing with the development of self-concept, and group responsibility and relationships.

STANDARD III The program shall require study and experiences designed to develop skills in observing, recording, and assessing children's behavior in order to plan an appropriate instructional program and learning environment.

STANDARD IV The program shall require study and experiences in the disciplines which provide content knowledge needed to teach language development and listening, speaking, writing, and reading, with an emphasis on language development.

STANDARD V The program shall require study and experiences in the disciplines which provide content knowledge needed to teach mathematics.

STANDARD VI The program shall require study and experiences in the disciplines which provide content knowledge needed to teach biological and physical sciences and health.

STANDARD VII The program shall require study and experiences in the disciplines which provide content knowledge needed to teach the social studies areas.

STANDARD VIII The program shall require study and experiences in the disciplines which provide content knowledge needed to teach fine arts.

STANDARD IX The program shall require experiences in organizing, planning, and implementing physical education activities and safety practices.

STANDARD X The program shall require study and experiences designed to develop competence in enabling children to express themselves creatively in a variety of ways, including experience through the arts.

STANDARD XI The program shall require study and experiences designed to develop competencies which enhance the critical thinking ability of the learner in any content area.

STANDARD XII The program shall require study designed to develop competence in facilitating independent learning and decision-making skills in young children and early adolescents.

STANDARD XIII The program shall require study and experiences designed to examine characteristics of different learning environments appropriate for children from infancy through early adolescence.

STANDARD XIV The program shall require study and experiences designed to develop skills in the use of state and local resources and appropriate referral strategies.

STANDARD XV The program shall require experiences designed to develop the skills and ability to work with parents and other adults in the home, school, and community.

STANDARD XVI The program shall require study in undertaking the organization and administration of the pre-kindergarten program. (This standard is applicable to programs preparing teachers in pre-kindergarten settings.)

C. MIDDLE EDUCATION

The following standards pertain to programs for preparing teachers of middle education.

STANDARD I The program shall require study of the intellectual, physical, psychological, and social characteristics of transescent students.

STANDARD II The program shall require study of the learning styles and patterns of transescent students.

STANDARD III The program shall require study of the teacher's role, curriculum trends, and organizational arrangements in middle education.

STANDARD IV The program shall require study of the content and the methods of teaching subjects taught in middle education and of integrating the curricular offerings.

D. SECONDARY EDUCATION TEACHING MAJORS*.

1. General Standards.

All programs for preparing teaching majors in fields of specialization are to be designed to meet the following general standards.

STANDARD I The institution shall be responsible for assuring the establishment of a procedure for communicating information among faculty, departments, and students, and for coordinating the various components of the teaching major or specialization requirements for prospective teachers. The institution shall define the role and responsibilities of appropriate personnel for all aspects of the program including advisement, planning, and supervision of the program of study for the student.

STANDARD II The teaching major or field of specialization shall be based upon statements of program objectives and competency expectations for classroom teaching as related to the public school curriculum. These statements shall reflect an analysis of current theory, research, practices, and recommendations of the professional organization representing the specialization field found in the public school curriculum.

STANDARD III The teaching major or field of specialization shall require study and experiences designed to develop an understanding of the sequential nature of the knowledge and skills as well as competency in the methodology needed to teach the subject matter.

STANDARD IV The teaching major or field of specialization shall include provision for a systematic program of evaluation to assure that the student has attained a minimum level of knowledge of content and teaching competence.

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* Also applies to middle level education teachers who are assigned to teach specific subjects.

STANDARD V The teaching major or field of specialization shall be supported by faculty, facilities, plant and equipment, library and media resources.

STANDARD VI The faculty responsible for teaching methodology shall give evidence of current knowledge of the teaching specialization, of teaching experience, and participation in elementary and/or secondary schools; e.g., supervision of teaching, inservice activity, or curriculum development.

2. Specific Standards.

The teaching major or field of specialization shall consist of a carefully planned pattern of courses and experiences designed to produce the competencies identified by the faculty as necessary for successful teaching in the subject area and at the particular grade levels for which the program is designed--elementary, secondary, or K-12.

E. SPECIAL EDUCATION:

1. Mild/Moderate Endorsement

STANDARD I Assessment: Eligibility determination; strength and weakness determination.

The program shall require demonstrated competence in selection, design, administration, and interpretation of a representative sample of age-appropriate, norm-referenced, criterion referenced and ecological assessments to determine the discrepancies between academic, behavioral, and life skill demands (requirements) and actual student performance.

STANDARD II Planning: Establishing goals and objectives for students based upon individual assessment, coordination of services, identification of resources, and implementation of activities.

The program shall require demonstrated competence in:

(1) projecting long-term outcomes and establishing appropriate annual goals and short term objectives utilizing assessment data;
(2) designing, planning, and coordinating age-appropriate academic and social integration and transition programs within regular school and community environments;
(3) designing a plan for accessing and coordination resources available in the student's natural environment to implement long-term outcomes annual goals and short-term objectives and identify a representative sample of such resources, both human and technological;

(4) designing appropriate, systematic, data-based, daily individual student activities based on student performance and relevant long-term outcomes, annual goals, and short-term outcomes, annual goals, and short-term objectives which provide for new skill development, practice and applications across environments;
(5) coordination of all services (required related services and a representative sample of support services including peer tutors, parents, volunteers) necessary to implement daily individual student activities which provide for new skill development, practice and applications across environments;
(6) developing an Individual Education Plan (IEP) which is an integrated management tool and which meets federal and state requirements.

STANDARD III Implementation: Actualizaton of planning and utilization of effective pedagogy across levels including: developmental, remedial, functional and compensatory.

The program shall require demonstrated competence in:
(1) implementing a variety of methods and techniques which encompass the following areas: (a) developmental - natural sequence of acquired skills; (b) remedial - reteaching specific areas of weakness; (c) functional - skills necessary to ensure independence; (d) compensatory - alternative strategies for reaching goals.
(2) knowledge of scope and sequence across academic, behavior, and life skills;
(3) conducting concept and task analysis to identify performance demands for skill use and application;
(4) teaching discrete skills, including selection and sequencing instructional examples to facilitate acquisition, strategies of trial distribution, systematic strategies of response prompting and fading and systematic strategies for rewarding correct student responses and correcting student errors in individual, small groups, and large group instruction;
(5) teaching for generalization;
(6) designing, implementing, and evaluating applied behavior analysis including related ethical issues;
(7) implementing effective techniques of consultation, collaboration, and teaming;
(8) utilizing the transdisciplinary approach to instruction.

STANDARD IV Evaluation: Monitoring student progress; formative and summative program evaluation.

The program shall require demonstrated competence in:

(1) designing and implementing data collection systems that measure the accuracy, rate, duration, fluency, and independence of student performance;

(2) designing and implementing data collection systems that measure performance across novel stimuli (generalization) and time (maintenance) and in natural (non-instructional) settings;

(3) selecting data collection systems which match the target behavior and intended outcome of instruction;

(4) adjusting instructional procedures based on student performance data;

(5) measuring consumer (e.g., parent, cooperating agency...) and team (e.g., therapist, regular educator, paraprofessional...) satisfaction with student educational program and in adjusting classroom procedures, methods of communication with significant other and/or educational programming based on consumer or team feedback.

2. Severe Endorsement

STANDARD I Assessment: Eligibility determination; strength and weakness determination.

The program shall require demonstrated competence in selection, design, administration, and interpretation of a representative sample of age-appropriate, norm-referenced, criterion referenced and ecological assessments to determine the discrepancies between functional academic, functional behavior, and functional life skill demands (requirements) and actual student performance.

STANDARDS II Planning: Establishing goals and objectives for students based upon individual assessment, coordination of services, identification of resources, and implementation of activities.

The program shall require demonstrated competence in:

(1) projecting long-term outcomes and establishing appropriate annual goals and short term objectives utilizing assessment data;

(2) designing, planning, and coordinating age-appropriate social integration and transition programs within regular school and community environments;

(3) designing a plan for accessing and coordinating resources available in the student's natural environment to implement long-term outcomes annual goals and short-term objectives and identify a representative sample of such resources, both human and technological;

(4) designing appropriate, systematic, data-based, daily individual student activities based on student performance and relevant long-term outcomes, annual goals, and

short-term objectives which provide for new skill development, practice, and application across environments;

(5) coordinating all services (required related services and a representative sample of support services including peer tutors, parents, volunteers) necessary to implement daily individual student activities which provide for new skill development, practice and applications across environments;

(6) developing an Individual Education Plan (IEP) which is an integrated management tool and which meets federal and state requirements.

STANDARD III Implementation: Actualization of planning and utilization of effective pedagogy across levels including developmental, remedial, functional, and compensatory.

The program shall require demonstrated competence in:

(1) knowledge of scope and sequence across functional life skill, academic, behavior, and life skills;

(2) conducting concept and task analysis to identify performance demands for skill use and application;

(3) teaching discrete skills, including selection and sequencing instructional examples to facilitate acquisition, strategies of trial distribution, systematic strategies of response prompting and fading and systematic strategies for rewarding correct student responses and correcting student errors in individual, small groups, and large group instruction;

(4) conducting general case analysis of performance demands;

(5) designing, implementing, and evaluating applied behavioral analysis systems including related ethical issues;

(6) implementing effective techniques of consultations, collaboration, and teaming;

(7) utilizing the transdisciplinary approach to instruction.

STANDARD IV Evaluation: Monitoring student progress; formative and summative program evaluation.

The program shall require demonstrated competence in:

(1) designing and implementing data collection systems that measure the accuracy, rate, duration, fluency, and independence of student performance;

(2) designing and implementing data collection systems that measure performance across novel stimuli (generalization) and time (maintenance) and in natural (non-instructional) settings;

(3) selecting data collection systems which match the target behavior and intended outcome of instruction;

(4) adjusting instructional procedures based on student performance data;

(5) measuring consumer (e.g., parent, cooperating agency...) and team (e.g., therapist, regular educator, paraprofessional...) satisfaction with student educational program and in adjusting classroom procedures, methods of communication with significant others and/or educational programming based on consumer or team feedback.

3. Hearing Impaired Endorsement

STANDARD I The program shall require demonstrated competence in understanding educational foundations in the education of the hearing impaired.

STANDARD II The program shall require demonstrated competence in understanding developmental characteristics unique to the hearing impaired.

STANDARD III The program shall require demonstrated competence in understanding language and communication, to develop competence to use appropriate instructional procedures to effect language learning in the hearing impaired children.

STANDARD IV The program shall require demonstrated competence in understanding the function and dysfunction of the sensorimotor and auditory systems.

STANDARD V The program shall require demonstrated competence in the selection of appropriate assessment instruments, administration of tests, and interpreting test results for the hearing impaired.

STANDARD VI The program shall require demonstrated competence in understanding curriculum and instruction procedures of the hearing impaired as well as normal hearing children.

STANDARD VII The program shall require demonstrated competence in understanding speech science and audiology and their relevance to education of the hearing impaired.

STANDARD VIII The program shall require demonstrated competence in understanding the anatomy and physiological aspects of the auditory and speech mechanisms and their dysfunctions as they relate to the hearing impaired.

STANDARD IX The program shall require demonstrated competence in understanding normal an abnormal language development and the implications for teaching language and reading to the hearing impaired.

STANDARD X The program shall require demonstrated competence in understandings the psychological dynamics of the hearing impaired in a hearing society.

STANDARD XI The program shall require demonstrated competence in understanding the counseling of parents and family of the hearing impaired.

4. Visually Impaired Endorsement

STANDARD I The program shall require demonstrated competence in understanding the anatomy and physiology of the eye of the visually impaired.

STANDARD II The program shall require demonstrated competence in understanding plans of organization and educational approaches to serving the visually impaired and the principles and practices of preparation, selection, adaptation, and effective use of appropriate instructional materials.

STANDARD III The program shall require demonstrated competence in adapting the school environments and providing assistance in the development of coping skills for the visually impaired.

STANDARD IV The program shall require demonstrated competence in the selection of appropriate assessment instruments, administration of tests, and interpretation of a variety of assessment instruments for the visually impaired.

STANDARD V The program shall require demonstrated competence in using appropriate teaching methods applied to the special needs and capabilities of the visually impaired in using tests and interpreting test results for programs.

STANDARD VI The program shall require demonstrated competence in understanding the impact of vision loss on the development of the visually impaired.

STANDARD VII The program shall require demonstrated competence in understanding the psychological dynamics of visual impairment in a sighted society.

STANDARD VIII The program shall require demonstrated competence in student and program evaluation, including assessment of instructional sequences and overall program effectiveness of related school programs.

STANDARD IX The program shall require demonstrated competence in counseling parents and family of the visually impaired and in providing effective counseling and guidance services.

REQUIREMENTS FOR EARLY CHILDHOOD, ELEMENTARY
MIDDLE, SECONDARY, SPECIAL EDUCATION, AND
COMMUNICATION DISORDERS CERTIFICATES

F. COMMUNICATION DISORDERS

1. Speech Pathology Endorsement

STANDARD I The program shall require demonstrated competence in understanding the anatomy and physiology of the speech, language, and hearing mechanism.

STANDARD II The program shall require study designed to develop understanding of the methods of organizing speech and language screening and intervention programs and the criteria applied in the development and evaluation of the programs.

STANDARD III The program shall require study designed to develop understanding of causative and maintaining factors of communication disorders.

STANDARD IV The program shall require study designed to develop competence in the use of a variety of standardized procedures of administering, scoring, and appropriately analyzing evaluation data to diagnose communication disorders across all student populations and age groups.

STANDARD V The program shall require study designed to develop understanding of factors which contribute to the effectiveness of the speech, language, and hearing program, including philosophy, organizational structure, personnel, materials, diagnostic, therapeutic, and evaluative strategies.

STANDARD VI The program shall require study designed to develop competence in implementing a speech and language stimulation program.

STANDARD VII The program shall require study designed to develop competence in the understanding of normal and abnormal language development and linguistic structure, semantics, and phonology.

STANDARD VIII The program shall require study designed to develop understanding of available resources, programs, personnel, and facilities within school districts, community, state, and nation which are: instructional, therapeutic, evaluative, consultative, medical, educational, and/or research oriented.

STANDARD IX The program shall require study designed to develop competence in the appropriate use of case files and school records of students referred and those previously enrolled in speech and language programs.

STANDARD X The program shall require study designed to develop competence in the understanding and use of the kinds of equipment and materials used with students in speech and language programs.

STANDARD XI The program shall require study designed to develop understanding of appropriate criteria for case selection, procedures for the identification of cases, and for program evaluation.

STANDARD XII The program shall require demonstrated competence in communicating with parents, students, and other professionals relative to the assessment, development, and implementation of a student's speech and language program.

STANDARD XIII The program shall require study designed to develop competence in identifying, assessing, remediating, and evaluating programs for articulation, fluency, voice, hearing, and language disorders (phonology, morphology, syntax, semantics, pragmatics).

STANDARD XIV The program shall require study designed to develop competence of a speech-language pathologist to serve as a consultant to regular educators and/or other agency staff.

STANDARD XV The program shall require demonstrated competence in understanding and using appropriate individual and group classroom management procedures.

2. Audiology Endorsement

STANDARD I The program shall require study designed to develop understanding of educational and hearing profiles of the hearing impaired student as compared to the normal hearing student and to develop competence in applying strategies in the teaching- learning process working with normal and hearing impaired students.

STANDARD II The program shall require demonstrated competence in understanding roles of the family, school administration, classroom teacher, medical personnel, audiologists, and other specialists of the school and community, including interaction with these groups.

STANDARD III The program shall require study designed to develop understanding of language development, linguistic structure, acoustics, anatomy and physiology of speech, language and hearing, and electronics appropriate to the practice of audiology.

STANDARD IV The program shall require study designed to develop understanding of the nature of communication as a process involving speech, language, and hearing.

STANDARD V The program shall require study designed to develop understanding of the principles of hearing aid evaluation, differential diagnosis of auditory disorders, hearing conservation programs, pediatric audiological evaluation, medical backgrounds of communicative disorders, psychoacoustic instrumentation applied to audiology and aural rehabilitation.

STANDARD VI The program shall require study designed to develop competence in the use of kinds of equipment and materials needed for maintenance and operation of educational programs for the hearing impaired.

STANDARD VII The program shall require study designed to develop competence in administering and interpreting special audiological instruments appropriate to diagnosis and assisting the hearing status of students.

STANDARD VIII The program shall require study designed to develop competence to conduct hearing aid evaluations and interpret results for purposes of selecting and maintaining wearable amplification systems for the hearing impaired students.

STANDARD IX The program shall require study designed to develop competence of audiologists to serve as consultants to educators and others on the agency staff.

UTAH STATE OFFICE OF EDUCATION
Teacher Certification
250 East 500 South
Salt Lake City, Utah 84111

CERTIFICATION REQUIREMENTS FOR SCHOOL COUNSELORS, SCHOOL PSYCHOLOGISTS, AND SCHOOL SOCIAL WORKERS
REVISED 5/8/92

REQUIREMENT STANDARDS

Certificates for School Counselor, School Psychologist, and School Social Worker are valid in kindergarten through grade twelve. (See Certification Requirements for Revalidation and Renewal.)

SCHOOL COUNSELOR

1. LEVEL I

   Provisional Endorsement: An applicant for the Level I School Counselor Certificate shall:

   a. be formally admitted into a state approved counselor training program.

   b. have completed a minimum of 27 quarter hours (18 semester hours) which include the following coursework: testing, counseling theory, career guidance, personal and social development, and practicum.

   c. complete a practicum experience as outlined in Level II.

   d. function as a counselor for not more than three years at which time all requirements for the Level II certificate must be met.

   e. within the first year of the three year period, complete a 600 hour field experience supervised by: (1) the training institution while officially registered in an internship course, and (2) an "on-site" supervisor holding a standard or professional certificate.

      Only 400 hours of field experience are required if the applicant has two or more previous years of successful teaching or counseling experience as approved by the Utah State Office of Education Certification Section.

2. LEVEL II

Basic Certificate: An applicant for the Level II School Counselor Certificate shall have:

a. completed all of the requirements as specified in the "Standards for Approval of Programs for the Preparation of School Counselors" as adopted by the Utah State Board of Education.

b. completed a practicum experience which must include: test administration and interpretation, guidance curriculum planning, individual and group counseling, individual education and occupational planning, and use of career information delivery systems.

c. completed an approved 600 hour field experience in a counselor education program in a school setting and under the supervision of a school counselor who holds a Level III or Level IV School Counselor Certificate and demonstrated competence during field experience in the following: structured groups, classroom presentations, advisement, assessment, placement and follow-up, personal counseling, consultation, referral, program management, community outreach, and public relations.

Only 400 hours of field experience are required if the applicant has two or more years of successful teaching or counseling experience as approved by the Utah State Office of Education Certification Section.

Districts unable to provide on-site supervision may make alternative arrangements with the State Certification Office.

d. been recommended for certification by an institution that has a program for the preparation of school counselors which has been approved by the Utah State Board of Education.

3. LEVEL III

Standard Certificate: An applicant for the Level III School Counselor Certificate shall have:

a. met all Level II requirements from an institution that has a program for the preparation of school counselors which has been approved by the Utah State Board of Education.

b. completed at least two years of successful experience as a school counselor under a Basic School Counselor Certificate or its equivalent.

c. been recommended by the superintendent of the employing school district.

4. LEVEL IV

Professional Certificate: An applicant for the Level IV School Counselor Certificate shall have:

a. met all Level II requirements from an institution whose program for the preparation of school counselors has been approved by the Utah State Board of Education.

b. a master's degree in school counseling or a related field.

c. completed at least two years of successful experience as a school counselor under a Level II or Level III School Counselor Certificate.

d. been recommended by the superintendent of the employing school district.

SCHOOL PSYCHOLOGIST

1. Basic Certificate: An applicant for the Basic School Psychologist Certificate shall have:

   a. completed at least an approved master's degree program in school psychology at an accredited institution.

   b. acquired and/or demonstrated competence as specified in the "Standards for Approval of Programs for the Preparation of School Psychologists" adopted by the Utah State Board of Education.

   c. completed a full-time academic-year internship in school psychology.

   d. been recommended for certification by an institution that has a program for the preparation of school psychologists which has been approved by the Utah State Board of Education.

2. Standard Certificate: An applicant for the Standard School Psychologist Certificate shall have:

   a. completed at least two years of successful teaching experience as a school psychologist under a Basic School Psychologist Certificate or its equivalent.

   b. been recommended by the employing school district with input from a teacher education institution.

SCHOOL SOCIAL WORKER

1. Basic Certificate: An applicant for the Basic School Social Worker Certificate shall have:

   a. completed an approved program for the preparation of School Social workers including a Master of Social Work degree from an accredited institution.

b. acquired and/or demonstrated competence as specified in the "Standards for Approval of Programs for the Preparation of School Social Workers" adopted by the Utah State Board of Education.

c. completed an approved school social work internship in a school setting or in an agency which includes a substantial amount of experience with children and contact with schools.

d. been recommended for certification by an institution that has a program for the preparation of school social workers which has been approved by the Utah State Board of Education.

2. Standard Certificate: An applicant for the Standard School Social Worker Certificate shall have:

a. completed at least two years of successful experience as a school social worker under a Basic School Social Worker Certificate or its equivalent.

b. been recommended by the employing school district with input from a teacher education institution.

SPECIFIC PROGRAMS FOR SERVICE SPECIALIZATIONS

The following standards pertain to advanced programs for preparing school counselors, instructional media specialists, school psychologists, school social workers, and other educational specialists.

SCHOOL COUNSELORS

The following standards pertain to advanced programs for preparing school counselors at all levels:

STANDARD I The program shall require demonstrated competence in the knowledge of the philosophy, organization, counseling theory, and professional activities related to the practice of school counseling.

STANDARD II The program shall require demonstrated competence in the knowledge of the organizational framework of a comprehensive school counseling program including evaluation.

STANDARD III The program shall require demonstrated competence in the knowledge of human development theory and research.

STANDARD IV The program shall require demonstrated competence in the knowledge of the nature, needs, and problems of learners.

STANDARD V The program shall require demonstrated competence in the knowledge of assessing and interpreting learner intelligence, aptitude, interest, and achievement.

STANDARD VI The program shall require demonstrated competence in consulting with parents, students, and professional personnel relative to the assessment of a student's academic, social, cognitive, psychological and physical functioning.

STANDARD VII The program shall require demonstrated knowledge of and experience in developing and implementing individual counseling plans (ICP).

STANDARD VIII The program shall require demonstrated competence in the knowledge of social and cultural issues including family/parent education; student drop-outs, child abuse, substance abuse, human sexuality, and sex-equity.

STANDARD IX The program shall require demonstrated competence in individual and group counseling, including the design and implementation of preventative and developmental strategies and services.

STANDARD X The program shall require demonstrated competence in career counseling, including career development theory, assessment and decision-making techniques.

STANDARD XI The program shall require demonstrated competence in the knowledge of early intervention strategies.

STANDARD XII The program shall require demonstrated competence in the knowledge of community, public, private, medical and educational referral agencies and other services as well as appropriate intervention strategies necessary to implement such referrals.

STANDARD XIII The program shall require demonstrated competence in the knowledge of legal and ethical issues of school counseling.

STANDARD XIV The program shall require demonstrated competence in the knowledge of computer-assisted guidance programs.

STANDARD XV The program shall require demonstrated competence in the knowledge of special needs and developmental issues of disabled students and their families.

STANDARD XVI The program shall require demonstrated competence in the following comprehensive guidance program strategies: structured groups, classroom presentations, advisement, assessment, placement and follow-up, individual counseling, small group counseling, consultation, referral, program management, community outreach, and public relations.

SCHOOL PSYCHOLOGISTS

STANDARD I The program shall require demonstrated competence in the knowledge of the organization, administration, and operation of schools, the major roles of personnel employed in schools, and curriculum development.

STANDARD II The program shall require demonstrated competence in psychological and psycho-educational assessments and intervention including all areas of exceptionality.

STANDARD III The program shall require demonstrated competence in individual and group intervention and remediation techniques, including consulting, behavioral methods, counseling, and primary prevention.

STANDARD IV The program shall require demonstrated competence in the knowledge of ethical and professional practice and legal issues related to the work of school psychologists.

STANDARD V The program shall require demonstrated competence in social psychology, including interpersonal relations, communications and consultation with students, parents, and professional personnel.

STANDARD VI The program shall require demonstrated competence in the knowledge of community-school relations and multicultural education programs and assessment.

STANDARD VII The program shall require demonstrated competence in the knowledge of tests and measurements, developmental psychology, affective and cognitive processes, social and biological bases of behavior, personality, and psychopathology.

SCHOOL SOCIAL WORKERS

STANDARD I The program shall require demonstrated competence in understanding the role and function of the school social worker including relationships with other professional school and community personnel, organizations, and agencies.

STANDARD II The program shall require demonstrated competence in understanding the organization, administration, and evaluation of a school social work program.

STANDARD III The program shall require demonstrated competence in social work practice with individuals, families, and groups.

STANDARD IV The program shall require demonstrated competence in developing a social history and psycho-social assessment of the individual and the family system.

STANDARD V The program shall require demonstrated competence in the knowledge of family dynamics and experience in counseling and conflict management and resolution.

STANDARD VI The program shall require demonstrated competence in communication and consultative skills to deal with the client, the family, the school staff, and community and social agencies.

STANDARD VII The program shall require demonstrated competence in the knowledge of the teaching/learning environment.

STANDARD VIII The program shall require demonstrated competence in the knowledge of school law and legal provisions pertaining to child welfare.

STANDARD IX The program shall require demonstrated competence in social work methods in the facilitation of the affective domain of education and the learning process.

STANDARD X The program shall require demonstrated competence in knowledge pertaining to the cause and effects of social forces, cultural changes, stress, disability, disease, deprivation, neglect, and abuse on learning and on human behavior and development, and the effect of these forces on minorities of race, ethnicity, and class.

APPENDIX E

UTAH SPECIAL EDUCATION LAW

Utah Code Annotated

Section 53A-15-301 through 53A-15-304

EDUCATION OF STUDENTS WITH DISABILITIES

53A-15-301. Education programs for students with disabilities - Supervision by the State Board of Education - Enforcement

(1) (a) All students with disabilities, who are between the ages of three and 22 and have not graduated from high school, are entitled to a free, appropriate public education.

(b) The State Board of Education shall adopt rules consistent with applicable state and federal law to implement this chapter.

(2) The rules adopted by the state board shall include the following:

(a) appropriate and timely identification of students with disabilities;
(b) diagnosis, evaluation, and classification by competent personnel;
(c) standards for classes and services;
(d) provision for multi-district programs;
(e) provision for out-of-district placement if necessary;
(f) certification and qualification for instructional staff; and
(g) qualification standards for aides and instructional assistants.

(3) (a) The state board shall have general control and supervision over all educational programs for students within the state who have disabilities.

(b) Those programs must comply with rules adopted by the state board under this section.

(4) The state superintendent of public instruction shall enforce this chapter.

53A-15-302. State director of special education - Qualifications - Duties

(1) The State Board of Education shall appoint a state director of special education, who shall be qualified and experienced in the area of special education.

(2) The state director has the following duties and responsibilities:

(a) to assist the state board and state superintendent of public instruction in performing their duties under this chapter;
(b) to encourage and assist school districts and other authorized public agencies in the organization of programs for students with disabilities;
(c) to provide general supervision over all public programs offered through a public school, public agency, public institution, or private agency for students with disabilities;
(d) to cooperate with private schools and other private agencies concerned with educating and training students with disabilities; and
(e) to coordinate all state programs for students with disabilities.

53A-15-303. School district responsibility - Reimbursement of costs - Other programs.

(1) (a) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district.

(b) The program shall include necessary special facilities, instruction, and education-related services.

(c) The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.

(2) School districts that provide special education services under this chapter in accordance with applicable rules of the State Board of Education shall receive reimbursement from the board under Title 53A, Chapter 17a, the Minimum School Program Act and other applicable laws.

(3) (a) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are younger than three or older than 21.

(b) The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

53A-15-303.5. Participation of students with a disability in extracurricular activities.

(1) A student with a disability may not be denied the opportunity of participating in public school programs or extracurricular activities because of the student's age, unless the participation threatens the health or safety of the student.

(2) The school district in cooperation with the Utah Department of Health shall establish criteria used to determine the health and safety factor.

(3) Subsection (1) applies to a student who has not graduated from high school and who is under the age of 20.

53A-15-304. Services provided by Department of Health

The Department of Health shall provide diagnostic and evaluation services, which are required by state or federal law but are not typically otherwise provided by school districts, to students with disabilities.

APPENDIX F

COORDINATING COUNCIL FOR PERSONS WITH DISABILITIES

62A-5a-101. Policy statement.

It is the policy of this state that all agencies that provide services to persons with disabilities:

(1) coordinate and ensure that services and supports are provided in a cost-effective manner. It is the intent of the Legislature that services and supports provided under this chapter be coordinated to meet the individual needs of persons with disabilities; and
(2) whenever possible, regard an individual's personal choices concerning services and supports that are best suited to his individual needs and that promote his independence, productivity, and integration in community life.

62A-5a-102. Definitions.

As used in this chapter:

(1) "Council" means the Coordinating Council for Persons with Disabilities.
(2) "State agencies" means:
  (a) the Division of Services for People with Disabilities and the Division of Mental Health, within the Department of Human Services;
  (b) the Division of Health Care Financing within the Department of Health;
  (c) family health services programs established under Title 26, Chapter 10, Family Health Services, operated by the Department of Health;
  (d) the Utah State Office of Rehabilitation; and
  (e) special education programs operated by the State Office of Education and local school districts under Title 53A, Chapter 15, Part 3, Education of Handicapped Children.

62A-5a-103. Coordinating Council for Persons with Disabilities - Creation - Membership.

(1) There is created the Coordinating Council for Persons with Disabilities. The council shall consist of:
  (a) the director of the Division of Services for People with Disabilities within the Department of Human Services, or his designee;
  (b) the director of family health services programs, appointed under Section 26-10-3, or his designee;
  (c) the executive director of the Utah State Office of Rehabilitation, or his designee;
  (d) the state director of special education, or his designee;
  (e) the director of the Division of Health Care Financing within the Department of Health, or his designee;
  (f) the director of the Division of Mental Health within the Department of Human Services, or his designee; and
  (g) the superintendent of Schools for the Deaf and Blind, or his designee.

(2) The council shall annually elect a chairperson from its membership. Four members of the council are necessary to constitute a quorum at any meeting. The action of a majority of the council shall be the action of the council.

62A-5a-104. Powers of council.

The council has authority, after local or individual efforts have failed, to:

(1) coordinate the appropriate transition of persons with disabilities who receive services and support from one state agency to receive services and support from another state agency;
(2) coordinate policies governing the provision of services and support for persons with disabilities by state agencies; and
(3) consider issues regarding eligibility for services and support and, where possible, develop uniform eligibility standards for state agencies.

62A-5a-105. Coordination of services for school age children.

(1) Within appropriations authorized by the Legislature, the state director of special education, the executive director of the Utah State Office of Rehabilitation, the executive director of the Department of Human Services, and the family health services director within the Department of Health, or their designees, and the affected local school district shall cooperatively develop a single coordinated education program, treatment services, and individual and family supports for students entitled to a free appropriate education under Title 53A, Chapter 15, Part 3, Education of Handicapped Children, who also require services from the Department of Human Services or the Department of Health.

(2) Distribution of costs for services and supports described in Subsection (1) shall be determined through a process established by the State Board of Education, the Department of Human Services, and the Department of Health.

APPENDIX G

INTERAGENCY

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING

The undersigned mutually acknowledge that for and on behalf of the Department of Social Services, the Utah State Board of Education, and the Department of Health, which they represent, separately, as designated by the signatures below, the following working relationship among these offices of state government have been agreed upon.

1. Wherever and whenever jurisdiction of programs is in question, the Department of Social Services shall have prime responsibility for maintenance care, family support, and mental health services; the State Board of Education shall have prime responsibility for education and training; and the Department of Health shall have prime responsibility for health.

2. In the case of defined institutions and programs, the designated agency shall have prime responsibility and will initiate action to involve the others in coordinated activity. Institutions and programs within the Department of Social Services and the Department of Health which have under their auspices educational components shall coordinate such components with the State Board of Education.

3. The Board of Education, the Department of Social Services, and the Department of Health shall develop coordinated procedures to enable programs to work together to better serve people and to eliminate conflicting policies and guidelines being developed for similar programs.

4. For all activities and programs in which more than one agency has mutual interest and where one agency has been designated as having prime responsibility, there must be reduced to writing at the service delivery level, (local education authorities, field services district offices, and local health authorities) the respective roles and relationships of the agencies, including what actions or activities each will undertake. Such formal agreements, when mutually acceptable, will be signed by the head of each local agency or his/her designee and a copy filed with each state agency. Although the designated lead agency shall assume responsibility for completing this action, any of the agencies involved may initiate it. Each agency shall be responsible for instructing its respective staff members concerning the agreements.

Nothing contained in this memorandum of understanding shall interfere with each agency carrying out its traditional and separate responsibility independently of the others; however, in all matters of mutual interest, cooperation and coordination is encouraged.

/ s / Anthony W. Mitchell
Executive Director
Department of Social Services

/ s / Walter D. Talbot
Executive Officer
State Board of Education

/ s / James O. Mason
Executive Director
Department of Health

APPENDIX H

LEAST RESTRICTIVE BEHAVIORAL INTERVENTIONS

LRBI is reviewed annually and updated periodically. Refer to the latest revision.

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